1989 No. 20

EUROPEAN COMMUNITIES

PLANNING

Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989

Made	*25th January 1989*
Coming into operation . .	*1st March 1989*

The Department of the Environment, being a department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on it by that section and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989 and shall come into operation on 1st March 1989.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these regulations—

"the 1972 Order" means the Planning (Northern Ireland) Order 1972(**d**);

"the Commission" means the Planning Appeals Commission;

"controlled waste" has the meaning assigned to that term by Article 36(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978(**e**);

"developer" means a person carrying out or proposing to carry out development;

"documents" includes photographs, drawings, maps and plans;

"the Department" means the Department of the Environment;

(**a**) S.I. 1988/785
(**b**) 1972 c. 68
(**c**) 1954 c. 33 (N.I.)
(**d**) S.I. 1972/1634 (N.I. 17)
(**e**) S.I. 1978/1049 (N.I. 19)

"environmental information" means the environmental statement prepared by an applicant or appellant, any representations made by any body required by these regulations to be consulted and any representations duly made by any other person about the likely environmental effects of the proposed development;

"environmental statement" shall be construed in accordance with Schedule 3;

"exempt development" means development which is the subject of a direction by the Department under regulation 17;

"the General Development Order" means the Planning (General Development) Order (Northern Ireland) 1973(**a**);

"Schedule 1 application" and "Schedule 2 application" mean an application for planning permission (other than an application made pursuant to Article 19 of the 1972 Order) for the carrying out of development of a description mentioned in Schedule 1 or Schedule 2 respectively, not being exempt development;

"special road" has the meaning assigned to that term by Article 2(2) of the Roads (Northern Ireland) Order 1980(**b**);

"special waste" has the meaning assigned to that term by regulation 3 of the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981(**c**).

Application for planning permission requiring an environmental statement

3.—(1) Planning permission shall not be granted pursuant to:—

(*a*) a Schedule 1 application; or

(*b*) a Schedule 2 application where the proposed development is likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

unless the Department or the Commission as the case may require, shall first have taken into consideration environmental information.

(2) For the purposes of paragraph (1)(*b*) a proposed development shall be taken to be likely to have a significant effect on the environment by virtue of factors such as its nature, size or location where:—

(*a*) the applicant and the Department agree that an environmental statement is required and the Department has notified its agreement in writing or;

(*b*) the Department has determined that an environmental statement is required under regulation 4, 5 or 6.

Application for a determination whether environmental statement required

4.—(1) Subject to paragraph (2) before applying for planning permission a developer may apply in writing to the Department for a determination—

(**a**) S.R. & O. (N.I.) 1973 No. 326
(**b**) S.I. 1980/1085 (N.I. 11)
(**c**) S.R. 1981 No. 252

(*a*) whether a proposed development would fall within any of the descriptions mentioned in Schedule 1 or 2 and, if so, within which such description; and

(*b*) whether, if the proposed development would fall within a description in Schedule 2, it would be likely to have a significant effect on the environment.

(2) An application under paragraph (1) shall be accompanied by—

(*a*) a plan sufficient to identify the land on which the proposed development is to be carried out;

(*b*) a brief description of the nature and purpose of the proposed development; and

(*c*) such further information or representations as the applicant wishes to provide or make.

(3) The Department may consult the district council and the other statutory bodies referred to in regulation 8(2) before making its determination.

(4) Subject to paragraph (5) the Department shall inform the applicant in writing of its determination within 4 weeks from the date of receipt of the application or within such extended period as may be agreed in writing between the Department and the applicant.

(5) Where the Department considers that it has not been provided with sufficient information to enable the application to be determined, it shall—

(*a*) specify to the applicant in writing within the period or extended period mentioned in paragraph (4) the points on which it requires further information; and

(*b*) determine the application within 4 weeks from the date on which the information required is received or within such extended period as may be agreed in writing between the Department and the applicant.

(6) Where the Department determines that the proposed development requires an environmental statement, it shall send the applicant a written statement giving the full reasons for its determination.

(7) If the applicant does not accept that determination he may by notice in writing inform the Department that he proposes to seek a hearing before the Commission.

(8) The notice referred to in paragraph (7) shall be served on the Department within 4 weeks from the date of the determination.

Application for planning permission made to Department without environmental statement

5.—(1) Where it appears to the Department that an application for planning permission is or may be a Schedule 1 or Schedule 2 application, the Department shall as provided in paragraph (2), determine whether an environmental statement is required.

(2) Paragraphs (3) to (8) of regulation 4 shall apply to a determination under this regulation subject to the modifications mentioned in paragraph (3).

(3) Those modifications are—

(*a*) references to a determination shall be construed as references to a determination under paragraph (1);

(*b*) references to the applicant shall be construed as references to the applicant for planning permission;

(*c*) in paragraph (4) after the word ''application'' there shall be inserted the words ''for planning permission'';

(*d*) in paragraph (5)—

(i) for the words ''enable the application to be determined'' there shall be substituted the words ''make the determination'';

(ii) in sub-paragraph (*b*), for the words ''determine the application'' there shall be substituted the words ''make the determination''.

(4) If the applicant does not inform the Department in accordance with regulation 4(7), as applied by paragraph (2), that he proposes to seek a hearing before the Commission, his application for planning permission shall be deemed to have been withdrawn.

(5) Where the Department determines, or, following a hearing by the Commission, confirms, that an environmental statement is required, it shall be submitted within 6 months from the date of the determination or such extended period as may be agreed in writing between the applicant and the Department and if not so submitted the application for planning permission shall be deemed to have been withdrawn.

(6) Where an application for planning permission has been deemed to have been withdrawn under paragraph (4) or (5) it shall be returned, along with any fee which accompanied it, to the applicant.

(7) Where, following a hearing by the Commission, the Department withdraws its determination that an environmental statement is required, the period within which the application for planning permission is to be determined shall be calculated from the date of notice to the applicant of the Department's withdrawal.

Hearing by Commission in relation to Department's determination

6.—(1) Where an applicant seeks a hearing before the Commission under regulation 4(7), or regulation 4(7) as applied by regulation 5(2), it shall afford the applicant the opportunity of appearing before and being heard by the Commission.

(2) Where a hearing is held the Department shall consider the report of the Commission and may confirm, amend or withdraw its determination.

Availability of information in relation to determination

7. The Department shall place a copy of a determination made under regulation 4 or 5 or confirmed or amended under regulation 6 on a register kept in pursuance of Article 21 of the 1972 Order.

Procedure to facilitate preparation of environmental statement

8.—(1) Where a developer informs the Department that he intends to submit an environmental statement with an application for planning permission he shall, if he has not already done so, furnish the Department with

the information necessary to identify the land and the nature and purpose of the proposed development and shall indicate the main environmental consequences to which he proposes to refer in his environmental statement.

(2) Where a developer informs the Department as mentioned in paragraph (1) and has complied with the requirements of that paragraph the Department, if it agrees that an environmental statement is required, shall—

(*a*) notify the district council for the area in which the land to which the proposal relates is situated of details of the proposed development;

(*b*) notify such other statutory bodies as appear to it to have an interest in the proposal;

(*c*) inform those bodies whom it notifies pursuant to sub-paragraphs (*a*) and (*b*) that they have a duty, subject to regulation 9, to make available to the developer (whose address it shall give in the notice), any information in their possession which he or they may consider relevant to the preparation of the environmental statement;

(*d*) supply a body whom it so informs with such further information in its possession about the proposed development as the body may reasonably request; and

(*e*) inform the developer in writing of the names and addresses of the bodies so notified.

Provision of relevant information

9.—(1) Subject to paragraph (2), any body notified by the Department pursuant to regulation 8(2) shall, if requested by the developer, or may, without such request, enter into consultation with him with a view to ascertaining whether they have information in their possession which he or they consider relevant to the preparation of the environmental statement, and shall make that information available to him.

(2) Paragraph (1) does not require the disclosure of information which the body concerned is entitled or bound to hold in confidence.

Consultation where environmental statement submitted

10.—(1) Where, in relation to a proposed development the Department receives an environmental statement it shall—

(*a*) place a copy of the environmental statement on the register required to be kept in pursuance of Article 21 of the 1972 Order; and

(*b*) consult the district council and bodies mentioned in regulation 8(2) about the environmental statement and inform them that they may make representations.

(2) Where a developer submits an environmental statement to the Department he shall provide enough copies of it, or parts thereof, to enable the Department to comply with paragraph (1)(*b*) and 3 additional copies.

(3) The Department shall give not less than 4 weeks notice to bodies consulted under paragraph (1)(*b*) that environmental information is to be taken into consideration in determining the application for planning permission for the development and shall not take such information into consideration until after the expiration of the period of such notice.