1973. No. 324 **[C]**

TOWN AND COUNTRY PLANNING

Planning (Control of Advertisements) Regulations (Northern Ireland) 1973

REGULATIONS, DATED 14TH SEPTEMBER 1973, MADE BY THE MINISTRY OF DEVELOPMENT UNDER ARTICLES 41, 51 AND 106 OF THE PLANNING (NORTHERN IRELAND) ORDER 1972.

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The Ministry of Development, on behalf of the Secretary of State, and in exercise of the powers conferred upon it by Articles 41, 51 and 106 of the Planning (Northern Ireland) Order 1972(a) hereby makes the following regulations:—

PART I

CITATION, COMMENCEMENT, INTERPRETATION AND APPLICATION

Citation and commencement

1. These regulations may be cited as the Planning (Control of Advertisements) Regulations (Northern Ireland) 1973 and shall come into operation on 1st October 1973.

Interpretation

2.—(1) In these regulations:—

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

"advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of, advertisement, announcement or direction and (without prejudice to the preceding provisions of this definition) includes any hoarding or similar structure used, or adapted for use, for the display of advertisements and references to the display of advertisements shall be construed accordingly;

"advertiser" means a person who himself, or by his servant or agent, undertakes or maintains the display of an advertisement;

"agricultural land" has the same meaning as in the Agriculture Act (Northern Ireland) 1949(b);

"business premises" has the meaning assigned to it by regulation 9(3);

"the Commission" means the Planning Appeals Commission;

"illuminated advertisement" means an advertisement which is designed or adapted to be illuminated by artificial lighting, directly or by reflection;

"site", in relation to an advertisement, means any land or any building other than an advertisement as herein defined on which an advertisement is displayed;

"specified classes" means the classes of advertisements specified in regulation 9(1).

(2) Reference in these regulations to the person displaying an advertisement shall be construed as reference to the advertiser, and shall be deemed to include:—

(*a*) the owner and occupier of the land on which the advertisement is displayed; and

(*b*) any person to whose goods, trade, business or other concerns publicity is given by the advertisement.

Application

3.—(1) These regulations shall apply to the display of all advertisements, except any advertisement:—

(*a*) displayed on enclosed land, and not readily visible from land outside the enclosure wherein it is displayed or from any part of such enclosure over which there is a public right of way or to which there is public right of access;

(a) S.I. 1972 No. 1634 (N.I. 17). (b) 1949. c. 2.

(*b*) displayed within a building;

(*c*) displayed on or in a vehicle;

(*d*) incorporated in, and forming part of, the fabric of a building, other than a building used principally for the display of such advertisements or a hoarding or similar structure;

(*e*) displayed on an article for sale or on the package or other container in which an article is sold, or displayed on the pump, dispenser or other container from which an article is sold; being an advertisement wholly with reference to the article for sale, which is not an illuminated advertisement.

(2) For the purposes of this regulation:—

(*a*) "article" includes a gas or liquid;

(*b*) the expression "enclosed land" means land which is wholly or for the most part enclosed within a hedge, fence, or wall or similar screen or structure and shall be deemed to include any railway station (and its yards) or bus station, together with their forecourts, whether enclosed or not; but shall not include any public park, public garden or other land held for the use or enjoyment of the public, or (save as hereinbefore specified) any enclosed railway land normally used for the carriage of passengers or goods by rail;

(*c*) "vehicle" means a vehicle normally employed as a moving vehicle on any road or railway, or a vessel normally employed as a moving vessel on any inland waterway; but shall not include any such vehicle or vessel during any period when it is used primarily for the display of advertisements;

(*d*) no advertisement shall be deemed to form part of the fabric of a building by reason only of being affixed to, or painted on the building.

PART II

GENERAL PROVISIONS

Control of advertisements to be exercised in the interests of amenity and public safety

4.—(1) The powers conferred by these regulations with respect to the grant or refusal of consent for the display of advertisements and the revocation or modification of such consent shall be exercisable only in the interests of amenity and public safety.

(2) When exercising such powers the Ministry,

(*a*) shall, in the interests of amenity, determine the suitability of the use of a site for the display of advertisements in the light of the general characteristics of the locality, including the presence therein of any feature of historic, architectural, cultural or similar interest; and when assessing the general characteristics of a locality the Ministry may disregard any advertisements therein displayed;

(*b*) shall, in the interests of public safety, have regard to the safety of persons who may use any road, railway, waterway (including any coastal waters), dock, harbour or aerodrome affected or likely to be affected by any display of advertisements; and shall in particular consider whether any such display is likely to obscure or hinder the ready interpretation of any road traffic sign, any railway signal or aid to navigation by water or air;

but without prejudice to its power to have regard to any other material factor.

(3) In the determination of an application for consent for the display of advertisements, or, where the revocation or modification of a consent is under consideration, regard may be had to any material change in circumstances likely to occur within the period for which the consent is required or granted.

(4) Save as hereinafter provided, and subject to the provisions of these regulations, express consent for the display of advertisements shall not contain any limitation or restriction relating to any particular subject matter or class of subject matter or to the content or design of any subject matter to be displayed, but shall take effect as consent to the use of a site for the purpose of displaying advertisements in the manner authorised by the consent whether by the erection of structures on the site or otherwise as the case may be:

Provided that where an application for consent relates to the display of a particular advertisement the Ministry may have regard to the effect on amenity and public safety of the display of such advertisement.

Consent required for the display of advertisements

5.—(1) No advertisement may be displayed without consent granted by the Ministry on an application in that behalf (referred to in these regulations as "express consent") or deemed to be granted under paragraph (2).

(2) Consent shall be deemed to be granted for the display of any advertisement displayed in accordance with any provision of these regulations whereby advertisements of that description may be displayed without express consent.

(3) In so far as the nature of the consent permits, consent for the display of any advertisements shall enure for the benefit of the land to which the consent relates and of all persons for the time being interested in that land; without prejudice, however, to the provisions of these regulations as respects the revocation or modification of an express consent.

(4) Save only as hereinafter excepted, it shall be a condition (whether expressly imposed or not) of every consent granted by or under these regulations that, before any advertisement is displayed on land in pursuance of the consent, the permission of the owner of that land or other person entitled to grant permission in relation thereto shall be obtained; except where an advertisement of the description specified in regulation 8(1)(*b*) is required to be displayed notwithstanding that such permission is not obtained.

The standard conditions

6. Without prejudice to the power of the Ministry to impose additional conditions upon a grant of consent under these regulations, the standard conditions set out in the Schedule shall, subject to the provisions of these regulations, apply without further notice:—

(*a*) in the case of the conditions set out in Part I of the Schedule, to the display of all advertisements; and

(*b*) in the case of the conditions set out in Part II of the Schedule, only to the advertisements being displayed with consent deemed to be granted by these regulations.

Contravention of regulations

7.—(1) A person displaying an advertisement in contravention of these regulations shall be liable on summary conviction of an offence under Article 51(2) of the 1972 Order to a fine not exceeding £100 and, in the case of a continuing offence, to a fine not exceeding £5 for each day during which the offence continues after conviction.

(2) Failure to observe any condition relating to the maintenance of an advertisement or of the site used for the display thereof, or to the satisfactory removal of an advertisement, shall not be a contravention of these regulations for the purposes of Article 51(2) of the 1972 Order insofar as concerns any person who is only deemed by virtue of Article 51(3) of the 1972 Order to display the advertisement, unless such person has failed to comply with a notice served on him by the Ministry under this paragraph requiring him to comply with the condition within such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

PART III

APPLICATIONS THE DISPLAY OF WHICH MAY BE UNDERTAKEN WITHOUT EXPRESS CONSENT

Election notices, statutory advertisements and traffic signs

8.—(1) The display of advertisements of the following descriptions may be undertaken without express consent:—

(*a*) any advertisement relating specifically to a pending parliamentary election or to a pending election to the Northern Ireland Assembly or a district council, not being an advertisement to which sub-paragraph (*b*) applies;

(*b*) advertisements required to be displayed by an enactment for the time being in force, or by Standing Orders of either House of Parliament, including (but without prejudice to the generality hereof) advertisements the display of which is so required as a condition of the valid exercise of any other power or proper performance of any function, given or imposed by an enactment;

(*c*) advertisements which are traffic signs as defined in section 190 of the Road Traffic Act (Northern Ireland) 1970(c).

(2) Consent deemed to be granted by virtue of paragraph (1) shall be subject to the following conditions in addition to the standard conditions:—
An advertisement of the description specified in paragraph 1(*a*) shall be removed within fourteen days after the close of the poll in the election to which the advertisement relates; and any other advertisement displayed for a temporary purpose in accordance with this regulation shall be removed as soon as may be after the expiry of the period during which such advertisement is required or authorised to be displayed or, if no such period is specified, shall be removed within a reasonable time after the purpose for which such advertisement was required or authorised to be displayed is satisfied.

The specified classes

9.—(1) Advertisements of the following classes may be displayed without express consent, subject to the provisions of this regulation:

(c) 1970. c. 2. (N.I.).