
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 73

PLANNING

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999

Made - - - - *23rd February 1999*

Coming into operation *14th March 1999*

The Department of the Environment, being a Department designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ 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 upon it by that section and of all other powers enabling it in that behalf, and having taken into account the selection criteria in Annex III to Council Directive 85/337/EEC⁽³⁾ as amended by Council Directive 97/11/EC⁽⁴⁾ hereby makes the following regulations:

Part I

General

Citation and commencement

1. These regulations may be cited as the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 and shall come into operation on 14th March 1999.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954⁽⁵⁾ shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these regulations—

(1) S.I. 1988/785

(2) 1972 c. 68

(3) O.J. No. L175, 5.7.85, p. 40

(4) O.J. No. L73, 14.3.97, p. 5

(5) 1954 c. 33 (N.I.)

“the 1991 Order” means the Planning (Northern Ireland) Order 1991(6) and references to Articles are references to Articles of that Order;

“the Commission” means the Planning Appeals Commission;

“the Department” means the Department of the Environment;

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

“the Directive” means Council Directive 85/337/EEC as amended by Council Directive 97/11/EC;

“documents” includes photographs, drawings, maps and plans;

“EIA application” means an application for planning permission for EIA development;

“EIA development” means development which is either—

- (a) Schedule 1 development; or
- (b) Schedule 2 development which is likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“environmental information” means the environmental statement, including any further information, 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” means a statement that includes such of the information referred to in Part I of Schedule 4 as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but which includes at least the information referred to in Part II of Schedule 4;

“exempt development” means development which comprises or forms part of a project serving national defence purposes or in respect of which the Department has made a direction under regulation 3(b);

“further information” has the meaning given to it in regulation 15(1);

“the General Development Order” means the Planning (General Development) Order (Northern Ireland) 1993(7);

“the land” means the land on which the development is to be carried out or, in the case of development already carried out, the land on which it has been carried out;

“Schedule 1 application” and “Schedule 2 application” mean an application for planning permission for Schedule 1 development and Schedule 2 development;

“Schedule 1 development” means development other than exempt development of a description mentioned in Schedule 1;

“Schedule 2 development” means development other than exempt development of a description mentioned in column 1 of the table in Schedule 2 where—

- (a) any part of that development is to be carried out in a sensitive area; or
- (b) any applicable threshold or criterion in the corresponding part of column 2 of that table is respectively exceeded or met in relation to that development;

“selection criteria” means the criteria set out in Schedule 3;

“sensitive area” means any of the following—

(6) S.I. 1991/1220 (N.I. 11)

(7) S.R. 1993 No. 278 as amended by S.R. 1995 No. 356; S.R. 1998 No. 222

- (a) an area of special scientific interest, that is to say, land so declared under Article 24 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985⁽⁸⁾;
- (b) an area of outstanding natural beauty, that is to say an area so designated under Article 14(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;
- (c) a National Park, that is to say an area so designated under Article 12(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;
- (d) a property appearing on the World Heritage List kept under Article 11(2) of the 1972 UNESCO Convention for the Protection of World Cultural and Natural Heritage⁽⁹⁾;
- (e) a scheduled monument within the meaning of the Historic Monuments and Archeological Objects (Northern Ireland) Order 1995⁽¹⁰⁾;
- (f) a European site within the meaning of regulation 9 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995⁽¹¹⁾.

(3) Subject to paragraph (4), expressions used both in these regulations and in the 1991 Order have the same meaning for the purposes of these regulations as they have for the purposes of the said Order.

(4) Expressions used in these regulations and in the Directive (whether or not used in the 1991 Order) have the same meaning for the purposes of these regulations as they have for the purposes of the Directive.

Directions

3. The Department may direct that—

- (a) a particular development of a description described in column 1 of the table in Schedule 2 and which does not meet the conditions in sub-paragraphs (a) and (b) of the definition of “Schedule 2 development” is EIA development; or
- (b) in accordance with Article 2.3 of the Directive (but subject to Article 7 of the Directive) that a specific development is not development in respect of which the consideration of environmental information is required before planning permission can be granted.

Prohibition on the grant of planning permission without consideration of environmental information

4.—(1) Planning permission shall not be granted for EIA development, where the application is received on or after the date these regulations come into operation, unless the Department or the Commission, as the case may require, has first taken into consideration environmental information.

(2) The Department or the Commission, as the case may require, shall when granting planning permission in respect of an application to which paragraph (1) applies, state in the notice to the applicant of its decision, that it has taken environmental information into consideration.

Confirmation that development is EIA development

5.—(1) Subject to any direction of the Department under regulation 3, the occurrence of an event mentioned in paragraph (2) shall determine, for the purposes of these regulations, that development is EIA development.

(2) The events referred to in paragraph (1) are—

⁽⁸⁾ S.I. 1985/170 (N.I. 1) as amended by S.I. 1989/492 (N.I. 3)

⁽⁹⁾ See Command Paper 9424

⁽¹⁰⁾ S.I. 1995/1625 (N.I. 9)

⁽¹¹⁾ S.R. 1995 No. 380

- (a) the submission by the applicant or appellant, in relation to that development, of a statement referred to by the applicant or appellant as an environmental statement for the purposes of these regulations; or
- (b) the determination by the Department, or following a hearing by the Commission, confirmation by the Department, that the development is EIA development.

Part II

Pre-application Procedures

Pre-application determination as to need for environmental impact assessment and opinion as to content of environmental statement

6.—(1) Subject to paragraphs (2) and (3), before applying for planning permission a developer may apply in writing to the Department asking it to give—

- (a) a determination as to whether a proposed development would or would not be an EIA development;
- (b) an opinion as to the information to be provided in the environmental statement to be submitted with an EIA application.

(2) A request under paragraph (1)(b) may be made at the same time as a request under paragraph (1)(a).

(3) A request under paragraph (1) shall be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and
- (c) such other information or representations as the applicant may wish to provide or make.

(4) Subject to paragraph (5), the Department shall inform the applicant, in writing, of its determination under paragraph (1)(a) 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 it to respond to a request under paragraph (1)(a) or (b) it shall notify the developer of the particular points on which further information is required, and the period for making the determination or for giving opinion on the content of the environmental statement shall not commence until receipt of that additional information.

(6) Subject to paragraph (8) the Department shall not give an opinion in response to a request under paragraph (1)(b) until it has consulted the developer, and such other authorities likely to be concerned by the proposed development by reason of their specific environmental responsibilities, but shall respond to such a request within 6 weeks of receipt of that request or such longer period as may be agreed in writing with the applicant.

(7) If, in response to a request under paragraph (1)(a), the Department, having taken into account the selection criteria, is of an opinion that an application would be an EIA application, it shall provide with the determination a written statement giving clearly and precisely the full reasons for its conclusion.

(8) Where the Department gives a determination under paragraph (7) and the applicant has also requested an opinion under paragraph (1)(b), the Department shall respond to the request for the opinion within 6 weeks of the date of issue of its determination under paragraph (7) or such longer period as may be agreed in writing with the applicant.

(9) In giving an opinion in response to a request under paragraph (1)(b), the Department shall take into account—

- (a) the specific characteristics of the particular development;
- (b) the specific characteristics of development of the type concerned; and
- (c) the environmental features likely to be affected by the development.

(10) Where the applicant wishes to proceed with the proposed development he shall by notice in writing inform the Department that he either—

- (a) accepts the Department's determination under paragraph (7) and proposes to provide an environmental statement; or
- (b) does not accept the Department's determination and proposes to seek a hearing before the Commission.

(11) The notice referred to in paragraph (10) shall be served on the Department within 4 weeks of the date of the determination.

(12) Where the Department has given an opinion under paragraph (1)(b) or where it has received a statement under regulation 5(2)(a) it shall not be precluded from requiring further information in connection with any environmental statement that may be submitted.

Part III

Preparation of Environmental Statements

Procedure to facilitate preparation of environmental statements

7.—(1) A developer may give the Department notice in writing under this paragraph that he intends to submit an environmental statement.

(2) A notice under paragraph (1) shall include or be accompanied by the information necessary to identify the land and the nature and purpose of the development, and shall indicate the main environmental consequences to which the person giving notice proposes to refer in his environmental statement.

(3) Where the Department receives—

- (a) such a notice as is mentioned in paragraph (1); or
- (b) such a statement as is mentioned in regulation 6(10)(a);

it shall notify—

- (i) the district council in the area in which the land to which the proposal relates is situated of the details of the proposed development; and
- (ii) such other authorities likely to be concerned by the proposed development by reason of their specific environmental responsibilities,

of the name and address of the developer and of the duty imposed on them by regulation 8(1) to make information available to the developer; and

- (iii) inform the developer in writing of the names and addresses of the bodies so notified.

Provision of information

8.—(1) Subject to paragraph (2), any body notified by the Department pursuant to regulation 7(3) shall, if requested by the developer, or may without such request, enter into consultation with him with a view to ascertaining whether the body has information in its 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) shall not require the disclosure by a body of information which is capable of being treated as confidential or must be so treated under regulation 5 of the Environmental Information Regulations (Northern Ireland) 1993(12).

Part IV

Procedures on Receipt of Application

Application made to the Department without prior determination as to need for environmental impact assessment or without an environmental statement

9.—(1) Where it appears to the Department that an application for planning permission—

- (a) is a Schedule 1 application or a Schedule 2 application;
- (b) has not been the subject of a determination as to whether the application is or is not an EIA application; and
- (c) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these regulations,

it shall make a determination as to whether the application is for EIA development, taking into account the selection criteria.

(2) If the Department considers that it has not been provided with sufficient information to make a determination, it shall notify the applicant of the particular points on which it requires further information.

(3) Where an EIA application, including an application determined as such under paragraph (1), is not accompanied by an environmental statement or a statement referred to by the applicant as an environmental statement, the Department shall notify the applicant in writing that the submission of such a statement is required, giving clearly and precisely the full reasons for its view.

(4) Subject to paragraph (5), the Department shall make a determination under paragraph (1) and, where necessary, notify the applicant in accordance with paragraph (3) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant.

(5) Where additional information is requested under paragraph (2), the Department shall notify the applicant of its determination within a period of 4 weeks from the date of receipt of the additional information.

(6) An applicant receiving a notification pursuant to paragraph (3) shall, within 4 weeks from the date of the determination, inform the Department, in writing, that he—

- (a) accepts the Department's determination and proposes to provide an environmental statement; or
- (b) does not accept the Department's determination and proposes to seek a hearing before the Commission.

(7) If the applicant does not inform the Department in writing in accordance with paragraph (6), the permission sought shall be deemed to be refused at the end of the relevant 4 week period; and the deemed refusal shall not give rise to an appeal to the Commission by virtue of Article 32 (appeals) or Article 33 (appeal in default of planning decision).

(8) Where the Department determines, or following a hearing by the Commission confirms, that an environmental statement is required, the statement shall be submitted within 6 months from the date of determination or such extended period as may be agreed in writing between the applicant and the Department, and if not so submitted, the application shall be deemed to be refused and the deemed refusal shall not give rise to an appeal to the Commission by virtue of Article 32 (appeals) or Article 33 (appeal in default of planning decision).

(9) 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.

(10) Where the Department makes a determination under paragraph (1) that an environmental statement is required or confirms a determination under paragraph (8), regulations 7(3) and 8 shall apply.

Extension of the period for Department's decision on a planning application

10. Where an environmental statement is required in relation to an application for planning permission, article 11 of the General Development Order shall have effect as if—

- (a) for the reference in paragraph (2)(a) of that article to a period of 2 months from the date the application was received there were substituted a reference to a period of 16 weeks; and
- (b) after paragraph (3)(b) of that article there were inserted—
 - “(ba) the environmental statement required to be submitted in respect of the application has been submitted, together with the documents required to accompany that statement; and”.

Application of Article 31 of the 1991 Order

11. Where an environmental statement is required to be submitted with an application for planning permission and the Department decides that the application for planning permission is one to which Article 31 (major planning applications) shall apply, that Article shall have effect as if—

- (a) for the reference to two months in paragraph (1) of that Article there were substituted a reference to 16 weeks; and
- (b) the date of application were calculated from the date when each of the events described in article 11(3) (time periods for decisions) of the General Development Order, as modified by regulation 10 has taken place.

Part V

Publicity

Publicity where an environmental statement is submitted

12. Where an environmental statement is submitted, the developer shall make it available to the public, and the Department shall, when it receives the environmental statement—

- (a) publish notice of the planning application in at least one newspaper circulating in the locality in which the land to which the application relates is situated, allowing the public a period of 4 weeks from the date on which the notice is first published, in which to make representations;

- (b) state in the notice that the planning application is accompanied by an environmental statement; and
- (c) give in the notice, an address (within the locality in which the land proposed to be developed is situated) at which copies of the environmental statement may be obtained from the developer, so long as stocks last, and if a charge is to be made for a copy, state the amount of the charge.

Availability of copies of environmental statement

- 13.** A developer who submits an environmental statement shall—
- (a) ensure that a reasonable number of copies are made available at the address given in the notice pursuant to regulation 12(c); and
 - (b) provide the Department with sufficient copies of it, or parts thereof, to enable the Department to comply with regulation 14 and 3 additional copies.

Consultation where environmental statement submitted

14.—(1) Where the Department receives an environmental statement in relation to a proposed development, it shall consult the district council and bodies mentioned in regulation 7(3) and inform them that they may make representations.

(2) The Department shall give not less than 4 weeks notice to bodies consulted under paragraph (1) that environmental information is to be taken into account in determining the application for planning permission.

Further information relating to environmental statement

- 15.—(1)** Where the Department or the Commission is of the opinion that—
- (a) the applicant could have provided further information about any of the matters mentioned in Schedule 4; and
 - (b) that further information is reasonably required to give proper consideration to the likely environmental effects of the proposed development,

it may request the applicant, by notice in writing, to submit such further information.

(2) The Department or the Commission may, by notice in writing, require an applicant to produce such evidence as it may reasonably call for to verify any information in his environmental statement.

(3) Regulations 12 to 14 shall apply where such further information is received by the Department in relation to an environmental statement, as if references to “environmental statement” were references to “further information”.

Charges

16.—(1) A reasonable charge reflecting the cost of printing and distribution of an environmental statement, part thereof or further information, may be made by the developer in respect of copies made available under regulation 13(a).

(2) A body entering into consultation pursuant to regulation 8, may make a reasonable charge for the costs of making available to the developer information in its possession.

Duty to inform the public of decisions

17.—(1) Where an EIA application is determined, the Department shall inform the public of the decision by publishing notice in at least one newspaper circulating in the locality in which the land is situated or by such other means as are reasonable in the circumstances.

(2) Where, after environmental information has been taken into consideration, an EIA application is determined by the Commission, the Commission shall—

- (a) notify the Department of its decision; and
- (b) provide the Department with a copy of a statement containing—
 - (i) the contents of the decision and the conditions attached thereto;
 - (ii) the main reasons for the decision and the considerations on which the decision was based; and
 - (iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.

(3) The Department shall, as soon as reasonably practicable after receipt of the notification under paragraph (2), comply with paragraph (1) as if the decision so notified was a decision of the Department.

Part VI

Development Likely to Affect Other Member States

Development likely to have significant effects on the environment in another Member State

18.—(1) Where—

- (a) it comes to the attention of the Department that proposed development is the subject of an EIA application and is likely to have significant effects on the environment in another Member State; or
 - (b) another Member State likely to be significantly affected by such development so requests, the Department shall—
 - (i) publish a notice in the Belfast Gazette giving the address of the proposed development, stating that it is accompanied by an environmental statement and that it is likely to have significant effects on the environment of another Member State and giving an address at which further information may be obtained;
 - (ii) send to the Member State as soon as possible and no later than the date of publication of the notice referred to in paragraph (i), the particulars mentioned in paragraph (2) and, if the Department thinks fit, the information referred to in paragraph (3); and
 - (iii) give the Member State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these regulations provide.
- (2) The particulars referred to in paragraph (1)(ii) are—
- (a) a description of the development, together with any available information on its possible significant effect on the environment in another Member State; and
 - (b) information on the nature of the decision which may be taken.
- (3) Where a Member State indicates in accordance with paragraph (1)(iii), that it wishes to participate in the procedure for which these regulations provide, the Department shall send to that Member State—

- (a) a copy of the application concerned;
- (b) a copy of the environmental statement in respect of the development to which that application relates; and
- (c) relevant information regarding the procedure under these regulations,

unless that information has already been provided to the Member State earlier in accordance with paragraph (1)(ii).

(4) The Department shall also—

- (a) arrange for the particulars and information referred to in paragraphs (2) and (3) to be made available, within a reasonable time, to the authorities referred to in Article 6.1 of the Directive and to the public concerned in the territory of the Member State likely to be significantly affected; and
- (b) ensure that those authorities and the public concerned are given an opportunity, before planning permission for the development is granted, to forward to the Department, within a reasonable time, their opinion on the information supplied.

(5) The Department shall in accordance with Article 7.4 of the Directive—

- (a) enter into consultations with the Member State concerned regarding, inter alia, the potential significant effects of the development on the environment of that Member State and the measures envisaged to reduce or eliminate such effects; and
- (b) determine, in agreement with the other Member State, a reasonable period of time for the duration of the consultation period.

(6) Where a Member State has been consulted in accordance with paragraph (3), on the determination of the application concerned, the Department shall inform the Member State and shall forward to it a statement of—

- (a) the content of the decision and any conditions attached thereto;
- (b) the main reasons and considerations on which the decision is based; and
- (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.

Projects in another Member State likely to have significant transboundary effects

19.—(1) Where the Department receives from another Member State pursuant to Article 7.2 of the Directive information which the Member State has gathered from the developer of a proposed project in that Member State which is likely to have significant effects on the environment in Northern Ireland, the Department shall, in accordance with Article 7.4 of the Directive—

- (a) enter into consultations with that Member State regarding, inter alia, the potential significant effects of the proposed project on the environment in Northern Ireland and the measures envisaged to reduce or eliminate such effects; and
- (b) determine in agreement with that Member State a reasonable period, before development consent for the project is granted, during which members of the public in Northern Ireland may submit to the competent authority in that Member State representations pursuant to Article 7.3(b) of the Directive.

(2) The Department, in so far as it is concerned, shall also—

- (a) arrange for the information referred to in paragraph (1) to be made available, within a reasonable time, both to the authorities in Northern Ireland which it considers are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned in Northern Ireland; and

- (b) ensure that those authorities and the public concerned in Northern Ireland are given an opportunity before development consent for the project is granted, to forward to the competent authority in the relevant Member State, within a reasonable time, their opinion on the information supplied.

Part VII

Unauthorised Development

Interpretation of Part VII

20. In this Part—

“deemed application” shall be construed in accordance with Article 71(3) (appeals against enforcement notice — supplementary provisions relating to planning permission);

“enforcement notice” means a notice issued under Article 68 (enforcement notices);

“ground (a) appeal” means an appeal under Article 69 (appeal against enforcement notice), so far as brought on the ground mentioned in paragraph (3)(a) of that Article.

Prohibition on the grant of planning permission for unauthorised development

21. The Commission shall not grant planning permission under paragraph (1) of Article 71 (appeal against enforcement notice — supplementary provisions relating to planning permission) in respect of unauthorised EIA development unless it has first taken environmental information into consideration, and states in its decision that it has done so.

Determination as to need for environmental statement, etc.

22.—(1) Where it appears to the Department that the matters constituting the breach of planning control comprise Schedule 1 or Schedule 2 development, the Department shall, before the enforcement notice is issued, make a determination, taking into account the selection criteria, as to whether the development is or is not EIA development.

(2) Where it appears to the Department that the matters constituting the breach of planning control comprise or include EIA development it shall serve with a copy of the enforcement notice a notice (“regulation 22 notice”) which shall—

- (a) include a copy of the determination required by paragraph (1) and a written statement giving clearly and precisely full reasons for its conclusions; and
- (b) require a person who gives notice of an appeal under Article 69 (appeal against enforcement notice) to submit to the Commission with the notice sufficient copies of the environmental statement relating to the unauthorised development to enable the Commission to comply with regulation 25.

(3) The Department shall send a copy of the regulation 22 notice to—

- (a) the Commission;
- (b) the district council for the area in which the land to which the unauthorised development relates is situated; and
- (c) any other authorities likely to be concerned by the unauthorised development by reason of their specific environmental responsibilities.

(4) Where the Department serves the Commission with a copy of a regulation 22 notice it shall also provide it with a list of the other persons to whom, in accordance with paragraph (3), a copy of the notice has been or is to be sent.

(5) Where a person gives notice of appeal under Article 69 and the Department has served on that person a regulation 22 notice with which he does not agree, that person may by notice in writing, within 4 weeks of the service of the enforcement notice, inform the Department that he proposes to seek a hearing before the Commission.

Time period for submission of environmental statement

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

Provision of information

24.—(1) Subject to paragraph (2) any person on whom a copy of a regulation 22 notice is served pursuant to regulation 22(3)(b) and (c) (“the consultee”) shall, if requested by the person on whom the regulation 22 notice was served, or may without such request, enter into consultation with him to determine whether the consultee has in his possession any information which he or they consider relevant to the preparation of an environmental statement and, if they have, the consultee shall make any such information available to the prospective applicant.

(2) Regulation 8(2) and 16(2) shall apply to information under paragraph (1) as they apply to information under regulation 8(1).

Procedure where the Commission receives an environmental statement

25.—(1) Where the Commission receives an environmental statement, or a statement referred to by the appellant as an environmental statement, in connection with an enforcement appeal it shall serve a copy on the Department and those bodies on whom a copy of the regulation 22 notice was served.

(2) The Commission shall give not less than 4 weeks notice to the Department and the bodies referred to in paragraph (1) that environmental information will be taken into consideration in determining the ground (a) appeal (if any) and inform them that they may make representations.

Further information and evidence respecting environmental statements

26.—(1) Regulation 15(1) and (2) shall apply in relation to further information as if the reference to “the Department” was omitted and the word “appellant” was substituted for the word “applicant”.

(2) If an appellant on whom notice has been given under paragraph (1) fails to provide the further information within the period specified in the notice, the deemed application and the ground (a) appeal (if any) shall lapse at the end of that period.

(3) Regulations 25 (procedure where the Commission receives an environmental statement) and 27 (publicity for environmental statements and decisions) shall apply in relation to further information received by the Commission in accordance with paragraph (1) as if references in those regulations to an environmental statement were references to the further information.

(4) The Commission shall send the Department a copy of any notice sent to the applicant under paragraph (1).

Publicity for environmental statements and decisions

27.—(1) Where the Commission receives a copy of an environmental statement, or a statement submitted by the appellant referred to as an environmental statement, in connection with an

enforcement appeal it shall publish in at least one newspaper circulating in the locality in which the land to which the enforcement notice relates is situated (“the locality”) a notice stating—

- (a) the name of the appellant and that he has appealed to the Commission against the enforcement notice;
- (b) the address or location of the land to which the notice related and the nature of the development;
- (c) that a copy of the environmental statement may be inspected by members of the public at all reasonable hours;
- (d) an address in the locality at which the statement may be inspected and the latest date it will be made available for inspection, being a period of 4 weeks from the date of the first publication of the notice;
- (e) that any person wishing to make representations about any matter dealt with in the statement should make them in writing, no later than 4 weeks after the date of the first publication of the notice; and
- (f) the address to which such representations are to be sent.

(2) Where the Commission determines the ground (a) appeal it shall inform the Department of its decision and the provisions of regulation 17 (duty to inform the public of decisions) shall apply to any grant of planning permission under Article 71 as they apply to a grant of planning permission under Part IV of the 1991 Order.

Involvement of other Member States

28. Regulation 18 (development likely to have significant effects on the environment in another Member State) shall apply subject to the following modifications—

- (a) for regulation 18(1)(a) substitute—
 - “(a) on the consideration of an appeal under Article 69 (appeal against enforcement notice), the Commission is of the opinion that matters which are alleged to constitute the breach of planning control comprise or include EIA development and the development has or is likely to have significant effects on another Member State, it shall notify the Department; and”;
- (b) in regulation 18(1)(i) delete the word “proposed”;
- (c) in regulation 18(3)(a) for the words “a copy of the application concerned” substitute the words “a description of the development concerned”; and
- (d) in regulation 18(3)(b) for “that application” substitute “the deemed application under Article 71(3)”.

Part VIII

Permission in Enterprise and Simplified Planning Zones and Permission Granted by Development Orders

Restrictions on grant of permission by old enterprise zone schemes

29.—(1) Any Order designating an enterprise zone or adoption of a modified scheme⁽¹³⁾ under the Enterprise Zones (Northern Ireland) Order 1981⁽¹⁴⁾ which has effect immediately before the

⁽¹³⁾ See Article 19 of S.I. 1991/1220 (N.I. 11)

⁽¹⁴⁾ S.I. 1981/607 (N.I. 15)

commencement of these regulations to grant planning permission shall, on and after that date cease to have effect to grant such permission for—

- (a) Schedule 1 development; or
- (b) Schedule 2 development unless the Department has made a determination that the proposed development is not EIA development.

(2) Paragraph (1) shall not affect the completion of any development begun before the commencement of these regulations.

Restrictions on the grant of permission by simplified planning zone schemes and enterprise zone schemes

30. After the commencement of these regulations—

- (a) an order adopting a simplified planning zone scheme under Article 14 or alteration of such a scheme under Article 17;
- (b) an order designating an enterprise zone under the Enterprise Zones (Northern Ireland) Order 1981 and the modification in relation to an approved enterprise zone under that Order,

shall not grant planning permission for—

- (i) Schedule 1 development; or
- (ii) Schedule 2 development unless the Department has made a determination that the development is not EIA development.

Development Orders

31. A development order under Article 13 made after the commencement of these regulations shall not grant planning permission for—

- (a) Schedule 1 development; or
- (b) Schedule 2 development unless the Department has made a determination that the development is not EIA development.

Part IX

Miscellaneous

Amendment to the Planning (Use Classes) Order (Northern Ireland) 1989

32. In article 3(5) (use classes) of the Planning (Use Classes) Order (Northern Ireland) 1989⁽¹⁵⁾, after sub-paragraph (k) insert “(l) as a waste disposal installation for the incineration, chemical treatment (as defined in Annex IIA to Directive 75/442/EEC⁽¹⁶⁾ under heading D9), or landfill of waste (that is to say, waste to which Directive 91/689/EEC⁽¹⁷⁾ applies).”.

(15) S.R. 1989 No. 290 as amended by S.R. 1993 No. 277; S.R. 1993 No. 462

(16) O.J. No. L194, 25.7.75, p. 39. Council Directive 75/442/EEC was amended by Council Directive 91/156/EEC (O.J. No. L78, 26.3.91, p. 32 and by Commission Decision 94/3/EC (O.J. No. L5, 7.1.94, p. 15)

(17) O.J. No. L337, 31.12.91, p. 20. Council Directive 91/689/EEC was amended by Council Directive 94/31/EC (O.J. No. L168, 2.7.94, p. 28)

Amendment to the General Development Order

33. The Planning (General Development) Order (Northern Ireland) 1993(18) shall be amended as follows—

- (a) in article 2 (interpretation) after the definitions of—
 - (i) “the 1991 Order” insert ““the EIA Regulations” means the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999;”;
 - (ii) “dwellinghouse” insert ““EIA development” has the meaning assigned to it by regulation 2 of the EIA Regulations;”;
 - (iii) “satellite antenna” insert ““sensitive area” has the meaning assigned to it in regulation 2 of the EIA Regulations.”.
- (b) in article 3 (permitted development) for paragraph (8), substitute—

“(8) Schedule 1 does not grant planning permission for—

 - (a) development within the meaning of Schedule 1 to the EIA Regulations; or
 - (b) development of a description mentioned in column 1 of the table in Schedule 2 to the EIA Regulations; where—
 - (i) any part of the development is to be carried out in a sensitive area; or
 - (ii) any threshold or criterion mentioned in column 2 of the table in Schedule 2 to the EIA Regulations as applicable to development of that description is respectively exceeded or met in relation to that development,unless the Department has given a determination pursuant to regulation 5 of the EIA Regulations that the proposed development is not EIA development.”.

Availability of information in relation to determinations, opinions, decisions, etc.

34. The Department shall make available for public inspection at all reasonable hours at the place where—

- (1) a register pursuant to article 18 of the General Development Order is kept, a copy of—
 - (a) any determination or opinion given pursuant to regulation 6(1) or 9(1), notification under regulation 9(3), or determination confirmed or amended under regulation 35(2) together with the accompanying statement of reasons, the relevant request and the documents which accompanied it;
 - (b) any environmental statement, or further information received under these regulations; and
 - (c) where environmental information has been taken into consideration in determining an application or appeal, a statement containing—
 - (i) the content of the decision and any conditions attached thereto;
 - (ii) the main reasons and considerations on which the decision is based; and
 - (iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.
- (2) a register pursuant to article 20 of the General Development Order is kept, a copy of—
 - (a) every regulation 22 notice served by the Department;
 - (b) every determination made by the Department in accordance with regulation 22(2) or notice confirmed or amended under regulation 35(2) in respect of a deemed application under Part VII;

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- (c) every environmental statement or additional information received by the Department by virtue of regulation 25(1); and
 - (d) every notice received by the Department under regulation 26(4).
- (3) a register kept pursuant to article 22 of the General Development Order is kept, a copy of any direction given by the Department pursuant to regulation 3.

Hearing by the Commission in relation to the Department’s determination

35.—(1) Where a person seeks a hearing before the Commission under regulations 6(10), 9(6) or 22(5) it shall afford that person 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.

Appeals to the Commission for developments for which an environmental statement is required

36. An appeal to the Commission under Article 32 or 33 in respect of an EIA application shall be accompanied by a copy of the statement which was submitted to the Department and where the Commission requires further information the provisions of regulation 15 shall apply as if the reference to “the Department” was omitted and the word “appellant” was substituted for the word “applicant”.

Revocations

37. The Statutory rules listed in Schedule 5 are hereby revoked.

Sealed with the Official Seal of the Department of the Environment on

L.S.

23rd February 1999.

C. Smith
Assistant Secretary

SCHEDULE 1

Regulation 2(2)

Descriptions of Development for the purposes of the definition of “Schedule 1 development”

Interpretation

In this Schedule—

“airport” means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14)(**19**);

“express road” means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975(**20**);

“nuclear power station” and “other nuclear reactor” do not include an installation from the site of which all nuclear fuel and other radioactive contaminated materials have been permanently removed; and development for the purpose of dismantling or decommissioning a nuclear power station or other nuclear reactor shall not be treated as development of the description mentioned in paragraph 2(b) of this Schedule.

Descriptions of development

The carrying out of development to provide any of the following—

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

(a) (a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more; and

(b) Nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).

(a) (a) Installations for the reprocessing of irradiated nuclear fuel.

(b) Installations designed—

(i) for the production or enrichment of nuclear fuel,

(ii) for the processing of irradiated nuclear fuel or high-level radioactive waste,

(iii) for the final disposal of irradiated nuclear fuel,

(iv) solely for the final disposal of radioactive waste,

(v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

(a) (a) Integrated works for the initial smelting of cast-iron and steel;

(b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.

5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos—

(a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;

(19) See Command Paper 6614

(20) See Command Paper 6993

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- (b) for friction material, with an annual production of more than 50 tonnes of finished products; and
 - (c) for other uses of asbestos, utilisation of more than 200 tonnes per year.
6. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—
- (a) for the production of base organic chemicals;
 - (b) for the production of basic inorganic chemicals;
 - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
 - (d) for the production of basic plant health products and of biocides;
 - (e) for the production of basic pharmaceutical products using a chemical or biological process;
 - (f) for the production of explosives.
- (a) (a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more;
 - (b) Construction of motorways and express roads;
 - (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 kilometres or more in a continuous length.
- (a) (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes;
 - (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.
9. Waste disposal installations for the incineration, chemical treatment (as defined in Annex IIA to Directive [75/442/EEC](#)(**21**) under heading D9), or landfill of hazardous waste (that is to say, waste to which Directive [91/689/EEC](#)(**22**) applies).
10. Waste disposal installations for the incineration or chemical treatment (as defined in Annex IIA to Directive [75/442/EEC](#) under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.
11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
- (a) (a) Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year;
 - (b) In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.
13. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Directive [91/271/EEC](#)(**23**).

(21) O.J. No. L194, 25.7.75, p. 39. Council Directive [75/442/EEC](#) was amended by Council Directive [91/156/EEC](#) (O.J. No. L78, 26.3.91, p. 32) and by Commission Decision [94/3/EC](#) (O.J. No. L5, 7.1.94, p. 15)

(22) O.J. No. L337, 31.12.91, p. 20. Council Directive [91/689/EEC](#) was amended by Council Directive [94/31/EC](#) (O.J. No. L168, 2.7.1994, p. 28)

(23) O.J. No. L135, 30.5.91, p. 40

14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.
15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
16. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 millimetres and a length of more than 40 kilometres.
17. Installations for the intensive rearing of poultry or pigs with more than—
 - (a) 85,000 places for broilers or 60,000 places for hens;
 - (b) 3,000 places for production pigs (over 30 kg); or
 - (c) 900 places for sows.
18. Industrial plants for—
 - (a) the production of pulp from timber or similar fibrous materials;
 - (b) the production of paper and board with a production capacity exceeding 200 tonnes per day.
19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.
20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 kilometres.
21. Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.

SCHEDULE 2

Regulation 2(2)

Descriptions of Development and Criteria for the purposes of the definition of “Schedule 2 development”

1. In the Table below—
 - “area of the proposed works”, includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation;
 - “floorspace”, means floorspace in a building or buildings;
 - “waterway” and “underground strata” have the meanings assigned to them by Section 30 of the Water Act (Northern Ireland) 1972(24).
2. The Table below sets out the descriptions of development and applicable thresholds and criteria for the purposes of classifying development as Schedule 2 development.

Column 1 Description of development	Column 2 Applicable threshold and criteria
The carrying out of development to provide any of the following— 1. Agriculture and aquaculture	

(24) 1972 c. 5 (N.I.)

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Column 1 Description of development	Column 2 Applicable threshold and criteria
(a) (a) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;	The area of the development exceeds 0.5 hectare.
(b) (b) Water management projects for agriculture, including irrigation and land drainage projects;	The area of the works exceeds 1 hectare.
(c) (c) Intensive livestock installations (unless included in Schedule 1);	The area of new floorspace exceeds 500 square metres.
(d) (d) Intensive fish farming;	The installation resulting from the development is designed to produce more than 10 tonnes of dead weight fish per year.
(e) (e) Reclamation of land from the sea.	All development.
2. Extractive industry	
(a) (a) Quarries, open-cast mining and peat extraction (unless included in Schedule 1);	All development (except the construction of buildings or other ancillary structures where the new floorspace does not exceed 1,000 square metres).
(b) (b) Underground mining;	
(c) (c) Extraction of minerals by fluvial dredging;	All development.
(d) (d) Deep drillings, in particular— (i) geothermal drilling; (ii) drilling for the storage of nuclear waste material; (iii) drilling for water supplies; with the exception of drillings for investigating the stability of the soil;	(i) In relation to any type of drilling the area of the proposed works exceeds 1 hectare; or (ii) in relation to geothermal drilling and drilling for storage of nuclear waste material only, drilling is to be undertaken within 100 metres of any waterway or water in underground strata.
(e) (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.	The area of the development exceeds 0.5 hectare.
3. Energy industry	
(a) (a) Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1);	The area of the development exceeds 0.5 hectare.
(b) (b) Industrial installations for carrying gas, steam and hot water;	The area of the works exceeds 1 hectare.
(c) (c) Transmission of electrical energy by overhead cables (unless included in Schedule 1);	(i) The nominal voltage of the electric line exceeds 33 kV; and (ii) the purpose of the line is the provision of a supply to more than one consumer;

Column 1 Description of development	Column 2 Applicable threshold and criteria
	(iii) where the modification of an existing line is proposed, it is outside the tolerances specified in the Overhead Lines (Exemption) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 118).
(d) (d) Surface storage of natural gas;	(i) the area of any new building, deposit or structure exceeds 500 square metres; or
(e) (e) Underground storage of combustible gases;	(ii) a new building, deposit or structure is to be sited within 100 metres of any waterway or water in underground strata.
(f) (f) Surface storage of fossil fuels;	
(g) (g) Industrial briquetting of coal and lignite;	The area of new floor space exceeds 1,000 square metres.
(h) (h) Installations for the processing and storage of radioactive waste (unless included in Schedule 1);	(i) The area of new floorspace exceeds 1,000 square metres; or (ii) the installation resulting from the development will require an authorisation or the variation of an authorisation under the Radioactive Substances Act 1993.
(i) (i) Installations for hydroelectric energy production;	The installation is designed to produce more than 0.5 megawatts.
(j) (j) Installations for the harnessing of wind power for energy production (wind farms).	(i) the development involves the installation of more than 2 turbines; or (ii) the hub height of any turbine or height of any other structure exceeds 15 metres.
4. Production and processing of metals	
(a) (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;	The area of new floorspace exceeds 1,000 square metres.
(b) (b) Installations for the processing of ferrous metals—	
(i) hot-rolling mills;	
(ii) smitheries with hammers;	
(iii) application of protective fused metal coats.	
4. Production and processing of metals (continued)	
(c) (c) Ferrous metal foundries;	
(d) (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);	

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Column 1 Description of development	Column 2 Applicable threshold and criteria
(e) (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;	
(f) (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;	
(g) (g) Shipyards;	
(h) (h) Installations for the construction and repair of aircraft;	
(i) (i) Manufacture of railway equipment;	
(j) (j) Swaging by explosives;	
(k) (k) Installations for the roasting and sintering of metallic ores.	

5. Mineral industry

- | | |
|--|---|
| (a) (a) Coke ovens (dry coal distillation); | The area of new floorspace exceeds 1,000 square metres. |
| (b) (b) Installations for the manufacture of cement; | |
| (c) (c) Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule 1); | |
| (d) (d) Installations for the manufacture of glass including glass fibre; | |
| (e) (e) Installations for smelting mineral substances including the production of mineral fibres; | |
| (f) (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain. | |

6. Chemical industry (unless included in Schedule 1)

- | | |
|--|--|
| (a) (a) Treatment of intermediate products and production of chemicals; | The area of new floorspace exceeds 1,000 square metres. |
| (b) (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides; | |
| (c) (c) Storage facilities for petroleum, petrochemical and chemical products. | (i) The area of any new building or structure exceeds 0.05 hectare; or |

Column 1 Description of development	Column 2 Applicable threshold and criteria
	(ii) more than 200 tonnes of petroleum, petrochemical or chemical products is to be stored at any one time.
7. Food industry	
(a) (a) Manufacture of vegetable and animal oils and fats;	The area of new floorspace exceeds 1,000 square metres.
(b) (b) Packing and canning of animal and vegetable products;	
(c) (c) Manufacture of dairy products;	
(d) (d) Brewing and malting;	
(e) (e) Confectionery and syrup manufacture;	
(f) (f) Installations for the slaughter of animals;	
(g) (g) Industrial starch manufacturing installations;	
(h) (h) Fish-meal and fish-oil factories;	
(i) (i) Sugar factories.	
8. Textile, leather, wood and paper industries	
(a) (a) Industrial plants for the production of paper and board (unless included in Schedule 1)	The area of new floorspace exceeds 1,000 square metres.
(b) (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles;	
(c) (c) Plants for the tanning of hides and skins;	
(d) (d) Cellulose-processing and production installations.	
9. Rubber industry	
Manufacture and treatment of elastomer-based products.	The area of new floorspace exceeds 1,000 square metres.
10. Infrastructure projects	
(a) (a) Industrial estate development projects;	The area of the development exceeds 0.5 hectare.
(b) (b) Urban development projects, including the construction of shopping centres and car parks;	
(c) (c) Construction of intermodal transshipment facilities and of	

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Column 1 Description of development	Column 2 Applicable threshold and criteria
intermodal terminals (unless included in Schedule 1);	
(d) (d) Construction of railways (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(e) (e) Construction of airfields (unless included in Schedule 1);	(i) The development involves an extension to a runway; or (ii) the area of the works exceeds 1 hectare.
(f) (f) Construction of roads (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(g) (g) Construction of harbours and port installations, including fishing harbours (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(h) (h) Inland-waterway construction (unless included in Schedule 1), canalisation and flood-relief works;	The area of the works exceeds 1 hectare.
(i) (i) Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule 1);	
(j) (j) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;	
(k) (k) Oil and gas pipeline installations (unless included in Schedule 1);	(i) The area of the works exceeds 1 hectare; or
(l) (l) installations of long-distance aqueducts;	(ii) in the case of a gas pipeline, the installation has a design operating pressure exceeding 7 bar gauge.
(m) (m) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;	All development.
(n) (n) Ground water abstraction and artificial ground water recharge schemes (unless included in Schedule 1);	The area of the works exceeds 1 hectare.

Column 1 Description of development	Column 2 Applicable threshold and criteria
(o) (o) Works for the transfer of water resources between river basins (unless included in Schedule 1).	
11. Other projects	
(a) (a) Permanent racing and test tracks for motorised vehicles;	The area of the development exceeds 1 hectare.
(b) (b) Installations for the disposal of waste (unless included in Schedule 1);	(i) The disposal is by incineration; or (ii) the area of the development exceeds 0.5 hectare; or (iii) the installation is to be sited within 100 metres of any waterway or water in underground strata or, marine waters.
(c) (c) Waste-water treatment plants (unless included in Schedule 1);	The area of the development exceeds 1,000 square metres.
(d) (d) Sludge-deposition sites;	(i) The area of the deposit or storage exceeds 0.5 hectare; or
(e) (e) Storage of scrap iron, including scrap vehicles;	(ii) a deposit is to be made or scrap stored within 100 metres of any waterway or water in underground strata or, marine waters.
(f) (f) Test benches for engines, turbines or reactors;	The area of new floorspace exceeds 1,000 square metres.
(g) (g) Installations for the manufacture of artificial mineral fibres;	
(h) (h) Installations for the recovery or destruction of explosive substances;	
(i) (i) Knackers' yards.	
12. Tourism and leisure	
(a) (a) Ski-runs, ski-lifts and cable-cars and associated developments;	(i) The area of the works exceeds 1 hectare; or (ii) the height of any building or other structure exceeds 15 metres.
(b) (b) Marinas;	The area of the enclosed water surface exceeds 1,000 square metres.
(c) (c) Holiday villages and hotel complexes outside urban areas and associated developments;	The area of the development exceeds 0.5 hectare.
(d) (d) Theme parks;	
(e) (e) Permanent camp sites and caravan sites.	The area of the development exceeds 1 hectare.

13.

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Column 1 Description of development	Column 2 Applicable threshold and criteria
(a) (a) Any change to or extension of development of a description listed in Schedule 1 or in paragraphs 1 to 12 of Column 1 of this table, where that development is already authorised, executed or in the process of being executed, and the change or extension may have significant adverse effects on the environment;	(i) In relation to development of a description mentioned in Column 1 of this table, the thresholds and criteria in the corresponding part of Column 2 of this table applied to the change or extension (and not to the development as changed or extended). (ii) In relation to development of a description mentioned in a paragraph in Schedule 1 indicated below, the thresholds and criteria in Column 2 of the paragraph of this table indicated below applied to the change or extension (and not to the development as changed or extended):

<i>Paragraph in Schedule 1</i>	<i>Paragraph of this table</i>
1	6(a)
2(a)	3(a)
2(b)	3(h)
3	3(h)
4	4
5	5
6	6(a)
7(a)	10(d) (in relation to railways) or 10(e) (in relation to airports).
7(b) and (c)	10(f)
8(a)	10(h)
8(b)	10(g)
9	11(b)
10	11(b)
11	10(n)
12	10(o)
13	11(c)
14	2(e)
15	10(i)
16	10(k)
17	1(c)
18	8(a)

<i>Paragraph in Schedule 1</i>	<i>Paragraph of this table</i>
19	2(a)
20	3(c)
21	6(c)
(b) (b) Development of a description in Schedule 1, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.	All development.

SCHEDULE 3

Regulation 2(2) — definition of “selection criteria”

Selection Criteria Referred to in Article 4.3 of the Directive

Characteristics of development

1. The characteristics of development must be considered having regard, in particular, to—
 - (a) the size of the development;
 - (b) the cumulation with other development;
 - (c) the use of natural resources;
 - (d) the production of waste;
 - (e) pollution and nuisances;
 - (f) the risk of accidents, having regard in particular to substances or technologies used.

Location of development

2. The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to—
 - (a) the existing land use;
 - (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under Member States' legislation; areas designated by Member States pursuant to Council Directive [79/409/EEC](#) on the conservation of wild birds⁽²⁵⁾ and Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora⁽²⁶⁾;

(25) O.J. No. L103, 25.4.79, p. 1

(26) O.J. No. L206, 22.7.92, p. 7

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- (vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
- (vii) densely populated areas;
- (viii) landscapes of historical, cultural or archeological significance.

Characteristics of the potential impact

3. The potential significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to—
- (a) the extent of the impact (geographical area and size of the affected population);
 - (b) the transfrontier nature of the impact;
 - (c) the magnitude and complexity of the impact;
 - (d) the probability of the impact;
 - (e) the duration, frequency and reversibility of the impact.

SCHEDULE 4

Regulation 2(2) — definition of
“environmental statement”

Matters for Inclusion in Environmental Statement

Part I

1. Description of the development, including in particular—
 - (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
 - (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.
2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from:
 - (a) the existence of the development;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste,

and the description by the applicant of the forecasting methods used to assess the effects on the environment.

5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.

6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.

7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

Part II

1. A description of the development comprising information on the site, design and size of the development.

2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.

3. The data required to identify and assess the main effects which the development is likely to have on the environment.

4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.

5. A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.

SCHEDULE 5

Regulation 37

Revocations

<i>Title</i>	<i>Reference</i>
Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989	S.R. 1989 No. 20
Planning (Assessment of Environmental Effects) (Amendment) Regulations (Northern Ireland) 1994	S.R. 1994 No. 395
Planning (Simplified Planning Zones) (Excluded Development) Order (Northern Ireland) 1994	S.R. 1994 No. 426
Planning (General Development) (Amendment) Order (Northern Ireland) 1995	S.R. 1995 No. 356
Planning (Environmental Assessment and Permitted Development) Regulations (Northern Ireland) 1995	S.R. 1995 No. 357

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations are concerned with the implementation in Northern Ireland of Council Directive [85/337/EEC](#) (O.J. No. L175, 5.7.1985, p. 40), as amended by Council Directive [97/11/EC](#) (O.J. No. L73, 14.3.1997, p. 5) on the assessment of the effects of certain public and private developments on the environment (“the Directive”).

The Regulations revoke and re-enact, with amendments, the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989 ([S.R. 1989 No. 20](#) as amended by [S.R. 1994 No. 395](#)) (“the 1989 Regulations”). They also incorporate provisions relating to simplified planning zones and permitted development formerly contained in the Planning (Simplified Planning Zones) (Excluded Development) Order (Northern Ireland) 1994 ([S.R. 1994 No. 426](#)) and the Planning (Environmental Assessment and Permitted Development) Regulations (Northern Ireland) 1995 ([S.R. 1995 No. 357](#)).

The main changes made by Directive [97/11/EC](#), which these Regulations implement are increased coverage of the types of development requiring environmental impact assessment (EIA); a requirement for individual determinations; clarification of the way in which or whether EIA is required for every Annex II project exceeding the thresholds established by the Member States; a requirement to give advice on the content of the environmental statement if the developer so requests; a requirement to publicise the decision on the need for EIA and also the consent decision; a requirement to give reasons for decisions on granting or refusing consent; enhanced consultation arrangements with other Member States where projects are likely to have significant transboundary effects.

The Regulations impose procedural requirements in connection with the consideration of applications for planning permission under the Planning (Northern Ireland) Order 1991 and applications for planning permission deemed to be made where an appeal is made against an enforcement notice.

The descriptions of development, which determine whether the development is affected by the Regulations, are set out in Schedule 1 and in column 1 of the Table in Schedule 2. A development of a description mentioned in that Table is potentially affected by the Regulations only if it is proposed to be carried out in a sensitive area (as defined in regulation 2), or satisfies one of the criteria mentioned in column 2 of the Table as applicable to a development of that description, or is of a description for which no criteria is shown as applicable in column 2 (a “Schedule 2 application”). The Department is required to determine, by reference to the criteria set out in Schedule 3, whether a development which is the subject of a Schedule 2 application is likely to have significant effects on the environment by reasons of matter such as its size, location and nature. Where the Department makes a determination, notice to that effect is to be given to the prospective applicant, or appellant, as the case may be, and noted in a register kept with the planning register.

Development of a description set out in Schedule 1 or development included in Schedule 2 where the proposed development would be likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location is referred to in the Regulations as EIA development (see regulation 2). The Regulations require that, subject to any direction to the contrary given by the Department under regulation 3, an environmental impact assessment must be undertaken in respect of all EIA development.

Regulation 3 permits the Department to direct that development in Schedule 2 is within the ambit of the Regulations. The Department may also exempt particular development by direction (as authorised by Article 2.3 of the Directive).

Regulation 4 prohibits the grant of planning permission for EIA development unless the Department or the Planning Appeals Commission (“the Commission”), as the case may be, has taken into consideration environmental information. It requires the Department or the Commission to state in the notice of its decision that it has taken environmental information (defined in regulation 2) into consideration. Environmental information includes a statement (“an environmental statement”), which must contain a description of the site, design and size of the development, the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects, data identifying and assessing the main effects which the development is likely to have on the environment, an outline of the main alternatives studied by the applicant and an indication of the main reasons for his choice, taking into account the environmental effects. Other information, of the descriptions set out in Schedule 4 to the Regulations must also be included where relevant. A non-technical summary must also be included in the statement.

Regulation 5 contains general provisions relating to EIA development. Regulation 6 deals with procedures for developers proposing to apply for planning permission. Under this regulation, they may seek a determination from the Department as to whether a proposed application would be an EIA application and an opinion as to the information to be included in the environmental statement. If the applicant does not accept the Department’s determination he may ask for a hearing by the Commission and following that the Department shall consider the Commission’s report and confirm, amend or withdraw its determination (regulation 35). If the opinion of the Department is sought the Department is required to consult authorities likely to be concerned by the proposal by reason of their environmental responsibilities before giving an opinion as to the content of the environmental statement. Regulations 7 and 8 provide for the Department to notify the district council and other environmental authorities and for those bodies to assist in the preparation of environmental statements.

Regulation 9 requires the Department to make the appropriate determination where a planning application is submitted without a prior determination as to whether the development proposed is EIA development. It also specifies the procedure to be followed where the application is not accompanied by an environmental statement.

Regulation 10 extends the time allowed to the Department to consider an application for planning permission from 2 months to 16 weeks where consideration of environmental information is required. It also provides that time does not run until an environmental statement is submitted or, in certain circumstances, while the need for this is under consideration.

Regulation 11 similarly extends from 2 months to 16 weeks the period within which the Department must decide whether or not an application is one to which Article 31 of the Planning (Northern Ireland) Order 1991 applies (major applications) where environmental assessment is required.

Regulation 12 provides for publicity by the Department, where an environmental statement is submitted in connection with a planning application. Regulation 13 concerns the provision of copies of an environmental statement by the developer. Regulation 14 provides for consultation on the statement and regulation 15 deals with the provision of additional information where this is required by the Department or Commission to determine the application. A person preparing a statement may charge the public for copies (regulation 16).

Regulation 17 requires the Department and the Commission to provide information about decisions taken following the consideration of environmental information in accordance with these Regulations.

Regulation 18 implements Article 7 of the Directive by providing for consultation between Member States in cases where development in Northern Ireland is likely to have significant effects on the environment in another Member State. Regulation 19 confers rights on the public in Northern Ireland to comment on projects in another Member State.

Regulations 20 to 28 contain provisions applying the environmental impact procedures to cases of unauthorised development.

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Regulation 29 prohibits the grant of planning permission for EIA development in an existing enterprise zone and regulation 30 prohibits new or amended simplified planning or enterprise zone schemes from granting planning permission for EIA development. Regulation 31 puts the same restriction on new development orders.

Regulation 32 amends the Planning (Use Classes) Order (Northern Ireland) 1989 and regulation 33 amends the Planning (General Development) Order (Northern Ireland) 1989. Both sets of amendments are consequential to these Regulations.

Regulation 34 requires the Department to make available for public inspection, copies of requests for opinions and determinations, environmental statements, determinations and opinions and decisions issued (with reasons).

Regulation 35 deals with hearings by the Commission in respect of the Department's determinations that development is EIA development and regulation 36 deals with appeals to the Commission in respect of a decision by the Department on a planning application for which an environmental statement was required.

Regulation 37 revokes a number of Statutory rules superseded by these Regulations.

Schedule 1 lists the developments for which environmental assessment is mandatory. Schedule 2 lists, with thresholds/criteria, development for which environmental assessment is required if it has significant environmental effects. Schedule 3 lists selection criteria referred to in Article 4.3 of the Directive. Schedule 4 lists matters for inclusion in an environmental statement and Schedule 5 lists the instruments revoked by these Regulations.

Copies of Council Directive [85/337/EEC](#) and [97/11/EC](#) and other Directives referred to in the Regulations may be obtained from the Commission of the European Communities, Windsor House, 9/15 Bedford Street, Belfast BT2 7EG, Telephone number Belfast (01232) 240708. Copies of Command Papers 6614, 6993 and 9424 may be obtained from the Stationery Office, 16 Arthur Street, Belfast BT1 4GB, Telephone number Belfast (01232) 238451.