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STATUTORY RULES OF NORTHERN IRELAND

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**2000 No. 84**

**FORESTRY**

**Environmental Impact Assessment (Forestry)  
Regulations (Northern Ireland) 2000**

*Made - - - - 14th March 2000*

*Coming into operation 1st May 2000*

The Department of Agriculture and Rural Development, being a department designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on it by the said section 2(2) 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](#)<sup>(3)</sup> as amended by Council Directive [97/11/EC](#)<sup>(4)</sup> hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2000 and shall come into operation on 1st May 2000.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“afforestation” means initial afforestation (which has the same meaning as in paragraph 1(d) of Annex II to the Directive);

“deforestation” means deforestation for the purposes of conversion to another type of land use (which terms have the same meaning as in paragraph 1(d) of Annex II to the Directive);

“the Department” means the Department of Agriculture and Rural Development;

“development” means development within the meaning of Article 11 of the Planning (Northern Ireland) Order 1991<sup>(5)</sup>;

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(1) [S.I. 1988/785](#)

(2) [1972 c. 68](#). Section 2 is subject to Schedule 2 to that Act and is to be read with [S.I. 1984/703 \(N.I. 3\)](#) and [S.R. 1994/2795 \(N.I. 15\)](#)

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

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

(5) [S.I. 1991/1220 \(N.I. 11\)](#)

“the Directive” means Council Directive [85/337/EEC\(c\)](#) on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive [97/11/EC\(d\)](#);

“EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed in Brussels on 17th March 1993;

“environmental information” means information in the environmental statement and any other information provided in accordance with these Regulations in relation to an application for consent or any reconsideration under regulation 17 relating to the likely environmental effects of the project which is the subject of the application or, as the case may be, reconsideration or review;

“environmental statement” means a statement—

- (a) that includes such of the information referred to in Part I of Schedule 1 as is reasonably required to assess the environmental effects of the project and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but
- (b) that includes at least the information referred to in Part II of Schedule 1;

“forest quarry works” means operations on land used or to be used for the purposes of forestry, or on land held or occupied with that land, to obtain the materials required for forest road works;

“forest road works” means the formation, alteration or maintenance of private ways on land used or to be used for the purposes of forestry;

“project” means the execution of construction works or of other installations or schemes or other intervention in the natural surroundings or landscape including those involving the extraction of mineral resources;

“proposer” means the person who proposes to carry out a project;

“relevant project” shall be construed in accordance with regulation 3.

(2) In these Regulations, any reference to an enforcement notice shall be construed as including, as the context requires, a reference to a notice of variation under regulation 19(6)(a) or to an enforcement notice so varied.

(3) Any reference in these Regulations (other than regulation 21) to consent is a reference to the consent of the Department required by regulation 4, and—

- (a) (where the context permits) includes consent by the Department on a reconsideration under regulation 17; and
- (b) in regulations 4 and 19 to 22 includes (in accordance with regulation 24) consent granted under the Environmental Assessment (Forestry) Regulations (Northern Ireland) 1998(6).

(4) The Interpretation Act (Northern Ireland) 1954(7) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

### **Interpretation of “relevant project”**

3.—(1) For the purposes of these Regulations, a project is a relevant project if—

- (a) it is a project of a type specified in paragraph (2);
- (b) subject to paragraph (3) it is likely, by virtue of factors such as its nature, size or location, to have significant effects on the environment; and

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(6) S.R. 1998 No. 437

(7) 1953 c. 33 (N.I.)

- (c) the carrying out of the project
  - (i) does not involve development, or
  - (ii) involves development which is not mentioned in Schedule 1 to, or in column 1 of, the table in Schedule 2 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999<sup>(8)</sup>; or
  - (iii) involves development for which planning permission is granted by Part 7 of Schedule 1 Part I to the Planning (General Development) Order (Northern Ireland) 1993<sup>(9)</sup>.
- (2) The types of project referred to in paragraph (1)(a) of this regulation are—
  - (a) afforestation;
  - (b) deforestation;
  - (c) forest road works;
  - (d) forest quarry works.

(3) For the purposes of paragraph (1)(b), and subject to regulations 6(3) and 7(6), a project shall be taken not to be likely to have significant effects on the environment if the area covered, or to be covered, by the project does not exceed any relevant threshold set out in Schedule 2.

#### **Restriction on relevant projects**

4.—(1) Subject to paragraph (2) no person shall carry out, on any land, work or operations relating to a relevant project unless—

- (a) consent has been granted for that project by the Department; and
- (b) the project is carried out in accordance with the consent (including the conditions to which the consent is subject).

(2) In accordance with Article 2(3) of the Directive, the Department may direct that a particular project is exempted from the application of these Regulations.

(3) A direction under paragraph (2) shall be in writing and shall be accompanied by a statement of the Department's reasons for making it.

(4) No direction shall be made under paragraph (2) where it appears to the Department that the project would be likely to have significant effects on the environment in another EEA State.

#### **Application for an opinion whether a project is a relevant project**

5.—(1) The proposer may apply in writing to the Department for its opinion whether a project is a relevant project.

- (2) An application under paragraph (1) shall include or be accompanied by—
  - (a) a map or plan sufficient to identify the land that is the subject of the proposed project and the extent of the proposed project;
  - (b) a brief description of the nature of the proposed project and of its possible effects on the environment; and
  - (c) such further information or representations as the proposer may wish to provide or make.

(3) The Department shall, if it considers that it has not been provided with sufficient information to enable it to give an opinion under paragraph (1), notify the proposer in writing of the matters on

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<sup>(8)</sup> S.R. 1999/73

<sup>(9)</sup> S.R. 1993/278

which it requires further information and the proposer shall supply that further information to the Department within such period as the Department reasonably may require.

### **Opinion of the Department**

6.—(1) Where the proposer applies to the Department under regulation 5, the Department shall give to the proposer written notice of its opinion within—

- (a) 28 days beginning with the date of its receipt of the application or, where it notifies the proposer under regulation 5(3) that it requires further information, the date of its receipt of that information; or
- (b) such longer period as may be agreed in writing between the Department and the proposer.

(2) Subject to paragraph (3), in considering, for the purpose of forming its opinion, whether the project is likely to have significant effects on the environment the Department shall take into account the selection criteria in Schedule 3.

(3) In a case where the project does not exceed any relevant threshold set out in Schedule 2, the Department shall form its opinion in accordance with regulation 3(3) except where, in its opinion, there are exceptional circumstances which, taking account of the selection criteria in Schedule 3, make it likely that the project will have significant effects on the environment.

(4) Where the opinion of the Department is that the project is a relevant project, the Department shall include in, or provide with, its opinion a written statement of its reasons for being of that opinion.

(5) The Department may, in the absence of an application, give its opinion whether or not a project is or would be a relevant project and where it gives an opinion under this paragraph—

- (a) it shall give written notice of its opinion to any person who reasonably appears to it to be the proposer; and
- (b) paragraphs (2), (3), (4) and (6) of this regulation shall apply as they do to an opinion given under regulation 5(1).

(6) In paragraph 3, the reference to circumstances which are, in the opinion of the Department, exceptional shall be construed in accordance with paragraph 4 of Schedule 2.

### **Request to the Department to reconsider its opinion**

7.—(1) The proposer may apply in writing to the Department for a reconsideration of its opinion whether a project is a relevant project where—

- (a) the Department gives notice of its opinion under regulation 6(1) or regulation 6(5) that the project is or would be a relevant project; or
- (b) the Department fails to give notice of its opinion within the period of time required by regulation 6(1).

(2) An application under paragraph (1) shall be accompanied by, or by copies of—

- (a) any application by the proposer to the Department under regulation 5(1) and any documents supplied to the Department by the proposer in connection with that application; and
- (b) in a case falling within paragraph (1)(a), the opinion of the Department and any written statement of the reasons which it provided with it,

and may include such further information or representations as the proposer may wish to provide or make.

(3) Where the Department considers that the documents supplied to it under paragraph (2) do not provide sufficient information to enable it to reconsider its opinion, it shall notify the proposer in writing of the matters on which further information is required.

(4) The Department shall reconsider the opinion to which it relates within 28 days (or such longer period as it may reasonably require) beginning with—

- (a) the date of receipt of the application under paragraph (1); or
- (b) where it required or sought further information under paragraph (3), the date of receipt by the Department of that information.

(5) Subject to paragraph (6), in considering whether the project is likely to have significant effects on the environment, the Department shall take into account the selection criteria in Schedule 3.

(6) In a case where the project does not exceed any relevant threshold set out in Schedule 2, the Department shall make its decision in accordance with regulation 3(3) except where, in its opinion, there are exceptional circumstances which, taking account of the selection criteria in Schedule 3, make it likely that the project will have significant effects on the environment.

(7) After reconsidering its opinion in pursuance of paragraph (4) the Department may—

- (a) affirm that opinion; or
- (b) substitute therefor such other opinion as seems to it to be appropriate in the circumstances.

(8) The Department shall provide an applicant under paragraph (1) with a written statement of the decision it has reached in relation to his application under paragraph (6) including, where the decision is that the project is or would be a relevant project, the reasons for that decision.

(9) In paragraph (6), the reference to circumstances which are, in the opinion of the Department, exceptional shall be construed in accordance with paragraph 4 of Schedule 2.

### **Effect of opinions**

**8.—**(1) This paragraph applies to an opinion given under regulation 6 or reconsidered under regulation 7 that a project is not or would not be a relevant project.

(2) An opinion to which paragraph (1) applies—

- (a) shall have the effect of determining for the purpose of these Regulations that the project specified in the opinion (but only that project) is not or would not be a relevant project; but
- (b) shall cease to have effect (without prejudice to the availability of a further opinion under regulation 6 or 7) on the expiry of—

- (i) the period five years beginning with the date on which the opinion is given or reconsidered; or

- (ii) such shorter period as may be specified in the opinion,

if the work relating to the project has not been completed within that period.

(3) This paragraph applies to an opinion under regulation 6 or 7 that a project is or would be a relevant project.

(4) An opinion to which paragraph (3) applies shall have the effect of determining for the purposes of these Regulations that the project specified in the opinion is or would be a relevant project.

### **Request as to the information to be included in an environmental statement**

**9.—**(1) Before applying for consent to carry out work in relation to a project, a proposer may request the Department to give its opinion as to the information to be contained in the environmental statement required for that project.

(2) Where a proposer requests an opinion under paragraph (1) before a determination has been made whether a project is or would be a relevant project, the Department shall deal with the request on the assumption that the project is a relevant project.

(3) Before giving an opinion under paragraph (1), the Department shall consult the applicant and any local authority or other public authority which appears to the Department to have an interest in the application.

(4) The Department shall, within a period of five weeks beginning with the date of the receipt of the request or such longer period as may be agreed in writing with the proposer, give its opinion under paragraph (1) and shall send a copy to the proposer.

### **Applications for consent**

**10.**—(1) An application for consent shall be made in writing to the Department and shall be accompanied by—

- (a) a map or plan sufficient to identify the land on which the relevant project would be carried out and the extent of any planting, tree felling, regeneration, construction, works or operations;
- (b) a description of the nature of the relevant project;
- (c) an environmental statement in respect of the relevant project; and
- (d) a copy of the notice to be published in accordance with regulation 13(1).

(2) An applicant for consent shall supply to the Department such number of copies of the application and the documents accompanying it as the Department reasonably may require.

### **Provision of further information**

**11.** Where in the opinion of the Department—

- (a) further information is reasonably required for its proper consideration of the likely environmental effects of the relevant project to which an application for consent relates; and
- (b) the applicant could (having regard in particular to current knowledge and methods of assessment) provide such information,

the Department shall notify the applicant in writing of the matter on which it requires further information and the applicant shall provide that further information.

### **Assistance in preparation of environmental statements**

**12.**—(1) Subject to paragraphs (2) and (3), the Department and any local authority or other public authority which appears to the Department to have an interest in the application shall, if requested by an applicant for consent, and may without such a request, enter into consultation with an applicant for consent to determine whether it has in its possession any information which may be relevant to the preparation of the environmental statement and if it has such information, it shall make it available to the applicant.

(2) Paragraph (1) shall not require the Department to disclose 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<sup>(10)</sup>.

(3) Paragraph (1) shall not prevent the Department or any local authority or other public authority which appears to the Department to have an interest in the application imposing a charge reflecting

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<sup>(10)</sup> S.R. 1993/45 as amended by S.R. 1998/238

the cost of making the information available (including for the identification, preparation and copying of any information) or making the payment of such a charge a condition of providing the information.

### **Publicity**

**13.—(1)** A person who makes an application for consent under regulation 10 or who provides further information under regulation 11 shall publish a notice in accordance with paragraph (2) in at least two newspapers specified by the Department for the purposes of ensuring—

- (a) the application for consent or, as the case may be, the information provided under regulation 11, is made available to the public; and
- (b) the public concerned is given an opportunity to express an opinion before the application for consent is determined.

(2) A notice required by paragraph (1) shall—

- (a) state that the application has been made or, as the case may be, that the further information has been furnished to the Department;
- (b) specify an office of the Department or other place nominated by it at which copies of the application or the further information may be inspected free of charge at all reasonable hours within 28 days beginning with the date of publication of the notice;
- (c) specify an address at which copies of the application or the further information may be obtained from the applicant and, if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying) of the charge; and
- (d) state that any person wishing to make representations regarding the application or the further information should make them in writing to the Department at an address nominated by it and specified in the notice, within 28 days beginning with the date of publication of the notice.

(3) On receipt of an application for consent under regulation 10, or of further information under regulation 11, the Department shall provide copies of the application or, as the case may be, the further information, together with a notice stating that any representations regarding the application or the further information should be made in writing to the Department within 28 days beginning with the date of the notice, to any local authority or other public authority which appears to the Department to have an interest in the application.

(4) In this regulation, reference to an application shall include a reference to the documents accompanying that application.

### **Information for another EEA State**

**14.—(1)** Where it appears to the Department that a project in relation to which it has received an application for consent would be likely to have significant effects on the environment of another EEA State or where another EEA State likely to be significantly affected so requests, the Department shall provide a copy of the environmental statement relating to the project to that EEA State.

(2) Where the Department receives a copy of an environmental statement in accordance with paragraph (1) it shall—

- (a) send to the EEA State as soon as possible and no later than the date of its publication as required by sub-paragraph (b) of this paragraph, the information mentioned in paragraph (3) and, if it thinks fit, the information mentioned in paragraph (4);
- (b) publish the information referred to in sub-paragraph (a) in a notice placed in the newspapers in which notice of the application was published with an indication of where further information is available;

- (c) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide; and
  - (d) inform the applicant for consent.
- (3) The information referred to in paragraph (2)(a) is—
- (a) a description of the project, together with any available information on its possible significant effect on the environment in another EEA State; and
  - (b) information on the nature of the decision which may be taken.
- (4) Where an EEA State indicates, in accordance with paragraph (2)(c) that it wishes to participate in the procedure for which these Regulations provide, the Department shall as soon as possible send to that EEA State the following information—
- (a) a copy of the application for consent;
  - (b) a copy of the environmental statement; and
  - (c) relevant information regarding the procedure under these Regulations, but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (2).
- (5) The Department shall also—
- (a) arrange for the information referred to in paragraphs (3) and (4) to be made available, within a reasonable time, to the authorities referred to in Article 6(1) of the Directive and the public concerned in the territory of the EEA State likely to be significantly affected; and
  - (b) ensure that those authorities and the public concerned are given an opportunity, before the determination of the application for consent, to forward to the Department, within a reasonable time, their opinion on the information supplied.
- (6) The Department shall in accordance with Article 7(4) of the Directive—
- (a) enter into consultations with the EEA State concerned regarding, inter alia, the potential significant effects of the project on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and
  - (b) determine in agreement with the other EEA State a reasonable period of time for the duration of the consultation period.
- (7) Where an EEA State has been consulted in accordance with paragraph (6), on the determination of the application concerned the Department shall inform the EEA State of the decision 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 project.

### **Determination of applications**

**15.—**(1) Where an application is made to the Department for consent, it may, subject to the provisions of this regulation—

- (a) grant consent either subject only to the conditions required by regulation 18 or also subject to such further conditions as it sees fit; or
- (b) refuse consent.

(2) The Department shall not determine an application for consent until after the expiry of the periods referred to in regulation 13 during which representations may be sent to the Department or where appropriate any period of consultation with an EEA State in accordance with regulation 14.



(3) In determining an application, the Department shall take into consideration the environmental information, any representations received by it in relation to the application and any other material consideration including in particular its assessment of the direct and indirect effects of the relevant project on the environmental factors specified in Schedule 4.

### **Notification of decisions**

- 16.** Where an application for consent has been determined by the Department it shall—
- (a) give notice in writing of its decision to the applicant and any person from whom it received representations in relation to the application, stating that it has taken into consideration the environmental information relating to the application and giving the reasons and considerations on which the decision was based; and
  - (b) publish a notice of its decision in the newspapers in which notice of the application was published in accordance with regulation 13(1) which gives details of the place and times at which the public may inspect a statement of—
    - (i) the content of the Department’s 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 project.

### **Request to the Department to reconsider its decision**

**17.—(1)** An applicant for consent may ask the Department to reconsider its decision where the Department has—

- (a) refused the application;
- (b) granted consent subject to conditions in addition to those required by regulation 18; or
- (c) granted consent subject only to the conditions required by regulation 18 but specified a period for the purposes of one or both of those conditions less than the maximum period permitted by that regulation.

(2) A request to reconsider a decision under paragraph (1) shall be made within 28 days, or such longer period as the Department may within that period of 28 days, allow, beginning with the date on which the applicant receives notification of the Department’s decision under regulation 16.

(3) Any request made to the Department shall be made by notice in writing and may be accompanied or followed by, or by copies of—

- (a) the application to which it relates and any documents provided by the applicant to the Department in relation to it;
- (b) the decision of the Department; and
- (c) any other information or representations which the applicant wishes to provide or make.

(4) Upon receipt of a request under paragraph (1) to reconsider any decision, the Department shall within 28 days beginning with the date of that request or of the receipt of any representations or information supplied in accordance with paragraph (3) reconsider its decision.

(5) In reconsidering its decision, the Department shall take into consideration the environmental information, any representations received by it in relation to the reconsideration and any other material consideration, including in particular its assessment of the direct and indirect effects of the relevant project on the environmental factors specified in Schedule 4.

(6) After reconsidering its decision in pursuance of paragraph (4), the Department shall—

- (a) give notice of its decision stating that it has taken into consideration the environmental information relating to the application to which the reconsideration relates and giving the reasons and considerations on which the decision was based to—
  - (i) the applicant;
  - (ii) any person from whom the Department received representations in relation to the application; and
- (b) publish a notice of its decision in the newspapers in which the decision of the Department to which the reconsideration relates was published in accordance with regulation 16(b) giving details of the place and times at which the public may inspect a statement of—
  - (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 project.

#### **Conditions to be included in every consent**

- 18.** Every consent shall include conditions to the effect that—
- (a) work in relation to the relevant project shall be commenced within such period (not being more than 5 years beginning with the date consent is granted) as is specified in the consent; and
  - (b) no work shall be carried out in relation to the project after the expiration of such period (not being more than 10 years beginning with the date consent is granted) as is specified in the consent.

#### **Enforcement notices**

**19.**—(1) Where it appears to the Department that a person is carrying out or has carried out work in relation to a relevant project—

- (a) without consent, where consent is required by regulation 4, or
  - (b) in breach of a condition subject to which consent has been granted under these Regulations,
- the Department may serve an enforcement notice on that person.

(2) An enforcement notice may require the person on whom it is served to take such one or more of the following measures as appear to the Department to be suitable in the circumstances, namely—

- (a) apply to the Department for consent;
- (b) discontinue work in relation to the relevant project;
- (c) restore the land to its condition before any work in relation to the relevant project was carried out;
- (d) carry out on the land any works or operations, specified in the enforcement notice, which in the opinion of the Department are reasonably necessary to secure compliance with any condition subject to which consent was granted or to remove or alleviate any injury to the environment which has been caused by the relevant project.

(3) An enforcement notice shall specify the period during which any of the measures mentioned in paragraph (2)(a), (c) or (d) is to be taken and may specify different periods for different measures.

- (4) Either—
  - (a) an enforcement notice served by virtue of paragraph (1)(a) shall include or be accompanied by a written statement of the Department’s reasons for being of the opinion that the project is a relevant project; or

- (b) the Department shall serve such a written statement on the person on whom the enforcement notice was served as soon as practicable after serving the enforcement notice.
- (5) Either—
  - (a) an enforcement notice shall include or be accompanied by a notice explaining how, to whom and within what period a person may request the Department to review an enforcement notice and whether the requirements of the enforcement notice will be stayed during any review; or
  - (b) the Department shall serve such a notice on the person on whom the enforcement notice was served as soon as practicable after serving the enforcement notice.
- (6) The Department may, at any time—
  - (a) by a further notice served on the person on whom the enforcement notice was served, vary an enforcement notice; and
  - (b) withdraw an enforcement notice.
- (7) An enforcement notice may be served on any person—
  - (a) by delivering it to him personally;
  - (b) by leaving it for him at his last known place of abode or business; or
  - (c) by sending it through the post addressed to him at his last known place of abode or business.
- (8) An enforcement notice may—
  - (a) in the case of a body corporate, be served on the secretary or clerk of that body at the address of the registered or principal office of that body;
  - (b) in the case of a partnership, be served on a partner or person having the control or management of the partnership business.

### **Requests to review enforcement notices**

**20.**—(1) Any person on whom an enforcement notice has been served may request the Department to review the enforcement notice.

(2) Any request to the Department to review an enforcement notice under this regulation shall be made within 28 days, or such longer period as the Department may, within that period of 28 days, allow, beginning with the date on which the applicant receives the enforcement notice.

(3) Any request to the Department to review an enforcement notice shall be made by notice in writing to the Department accompanied by, or by copies of—

- (a) the enforcement notice;
- (b) any relevant consent; and
- (c) any other information or representations which the applicant wishes to provide or make.

(4) On receipt of a request to review an enforcement notice under this regulation, the Department shall review the notice within 28 days (or such longer period as it reasonably may require) beginning with—

- (a) the date of receipt by it of the request or any representations or information supplied in accordance with paragraph (4); or
- (b) where there is no consent or application for consent relevant to the enforcement notice, the date of receipt by it of the notice in writing of the request from the applicant.

(5) The Department may, subject to paragraph (9), allow or dismiss the request to review the enforcement notice or vary any part of the enforcement notice.

(6) In reviewing the enforcement notice, the Department shall take into consideration any environmental information, any representations received by it in relation to the request to reconsider its decision and any other material consideration, including in particular its assessment of the direct and indirect effects of the relevant project on the environmental factors specified in Schedule 4.

(7) When it has reviewed the enforcement notice, the Department shall give notice of its decision to the person who requested the review under paragraph (1), giving the reasons and considerations on which the decision was based.

(8) The Department shall not review its decision on an enforcement notice served by virtue of regulation 19(1)(a) where it appears to the Department that consent is required by regulation 4.

(9) The request to the Department to review the enforcement notice under this regulation shall have the effect of suspending the operation of any requirement in the enforcement notice to which it relates to take measures described in sub-paragraphs (a), (c) or (d) of regulation 19(2) until the Department has reviewed the enforcement notice or, where the request to review the enforcement notice is withdrawn, until it has been withdrawn.

### **Penalties for non-compliance with enforcement notices**

**21.**—(1) Any person who carries out work in relation to a relevant project in contravention of a requirement to discontinue that work in an enforcement notice served on him in accordance with regulation 19 shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment to a fine.

(2) Any person on whom an enforcement notice has been served in accordance with regulation 19 who fails, within the period specified in the enforcement notice, to carry out any measure, other than discontinuance of the relevant project, required by the enforcement notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum.

### **Power of entry and default powers**

**22.**—(1) Subject to paragraph (2), any person duly authorised in writing by the Department may at any reasonable time enter any land on which he or the Department reasonably suspects that work in relation to a relevant project is being or has been carried out—

- (a) without consent, where such consent is required under regulation 4; or
- (b) in breach of a condition subject to which consent has been granted.

(2) Where any measures required by an enforcement notice by virtue of regulation 19(2) (other than discontinuance of the relevant project) have not been taken within the period specified in the enforcement notice—

- (a) any person duly authorised by the Department may at any reasonable time enter the land to which the enforcement notice relates and take those measures; and
- (b) the Department may recover from the person on whom the enforcement notice was served any expenses reasonably incurred by it in doing so.

(3) A person authorised under paragraphs (1) or (2) to enter any land shall, if so requested, produce evidence of his authority before so entering.

### **Registers of directions, decisions and opinions etc. for public inspection**

**23.**—(1) The Department shall keep a register of the following—

- (a) each direction received under regulation 4(2);
- (b) each opinion under regulation 6(1) or (5);

- (c) each opinion under regulation 7(8);
- (d) each opinion under regulation 9(1);
- (e) each decision under regulation 15(1);
- (f) each decision under regulation 17(7);
- (g) statements of reasons accompanying any of the above;
- (h) each environmental statement received, including any further information.

(2) Each register kept under this regulation shall be available for inspection by the public at all reasonable hours.

### **Revocation and transitional provisions**

**24.**—(1) The Environmental Assessment (Forestry) Regulations (Northern Ireland) 1998<sup>(11)</sup> (in this regulation called “the 1998 Regulations”) are revoked.

(2) Paragraph (1) shall not effect the continued application of the 1998 Regulations in respect of any matter relating to—

- (a) a breach of regulation 3 of those Regulations which occurred before the date of coming into operation of these Regulations; or
- (b) an enforcement notice issued under regulation 15 of those Regulations; and these Regulations shall not apply to such a matter.

(3) Where, before the date of coming into operation of these Regulations, a request for an opinion under regulation 4 of the 1998 Regulations has been received by the Department but the Department has not given its opinion in relation to that application—

- (a) the application shall be treated as an application under regulation 5(1);
- (b) any notification of the Department under regulation 4(3) of the 1998 Regulations shall be treated as a notification under regulation 5(3) (but without prejudice to its power to make a further notification under the latter regulation);

(4) Where, before the date of coming into operation of these Regulations, the Department has received a request under regulation 6(1) of the 1998 Regulations but has not made any decision in relation to that request—

- (a) the application shall be treated as an application under regulation 7(1);
- (b) any notification by the Department under regulation 6(3) of the 1998 Regulations shall be treated as a notification under regulation 7(3) of these Regulations (but without prejudice to the power to make a further notification under the latter regulation);

(5) Where before the date of coming into operation of these Regulations, an application under regulation 7 of the 1998 Regulations has been received by the Department but the Department has not given determined the application—

- (a) the application shall be treated as an application under regulation 10;
- (b) any notification by the Department under regulation 8 of the 1998 Regulations shall be treated as a notification under regulation 11 (but without prejudice to the Department’s power to make a further notification under the latter regulation);

(6) Where, before the date of coming into operation of these Regulations, a request to the Department to reconsider its decision under regulation 13 of the 1998 Regulations has been made but the Department has not reconsidered its decision, the request shall be treated as if it had been made under regulation 17.

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(11) S.R. 1998 No. 437

(7) Where—

- (a) a case falls to be treated under these Regulations by virtue of paragraph (3), (4) or (6); and
- (b) part or all of a period of time specified in regulation 6(1), 7(4) or (as appropriate) 17(4) (“the relevant provision”) expired before the date of the coming into operation of these Regulations,

the whole of the specified period shall be taken into account for the purposes of these Regulations in the same way as if the relevant provision had been in force on the date specified in the relevant provision as the date on which the period began to run.

(8) An opinion of the Department given under regulation 5 of the 1998 Regulations or reconsidered under regulation 6 of the 1998 Regulations that a particular project was not a relevant project for the purpose of those Regulations—

- (a) shall be treated after the coming into operation of these Regulations as determining that the project specified in the reconsideration or opinion (but only that project) is not a relevant project for the purposes of these Regulations; but
- (b) shall cease to have the effect stated in sub-paragraph (a) (without prejudice to the availability of a further reconsideration or opinion under these Regulations) on the expiry of the period of five years beginning with the date of coming into operation of these Regulations if the work relating to the project has not been completed within that period.

(9) Where an application for a grant under section 2(1) of the Forestry Act (Northern Ireland) 1953(12) has been received by the Department before the coming into operation of these Regulations, any environmental information provided, consultations undertaken or other things done under the 1998 Regulations for the purpose of the Department’s taking into consideration environmental information in respect of the project that is the subject of the application, shall be treated as having been provided, undertaken or done under the corresponding provision of these Regulations as if the application were an application for consent.

(10) Where an application for a grant under section 2(1) of the Forestry Act (Northern Ireland) 1953 in respect of any relevant project has been approved by the Department before the date of coming into operation of these Regulations—

- (a) the relevant project shall be deemed to have consent subject to conditions as required by regulation 18 (and on the basis that the Department had specified the maximum times permitted by that regulation) in addition to the conditions (if any) to which the grant is subject; and
- (b) consent shall be deemed to have been given when the Department made its decision to make the grant for the project.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 14th March 2000.

L.S.

*M. H. Beatty*  
Senior Officer of the  
Department of Agriculture and Rural  
Development

## SCHEDULE 1

Regulations 2(1)

### Information for inclusion in Environmental Statements

#### Part I

1. A description of the project, including in particular—
  - (a) a description of the physical characteristics of the whole project 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 project.
2. 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.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the proposed project 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 project, resulting from—
  - (a) the existence of the project;
  - (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.
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 project comprising information on the site, design and size of the project.
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 project is likely to have on the environment.
4. 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.
5. A non-technical summary of the information provided under paragraphs 1 to 4.

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## SCHEDULE 2

Regulation 3(3)

**Thresholds for identification of projects likely to have significant effects on the environment****Interpretation**

1. For the purposes of this Schedule—

“sensitive area” means—

- (a) land to which Article 14(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(13) (in this paragraph “the 1985 Order”) applies (areas of outstanding natural beauty);
- (b) land notified under Article 24(3) of the 1985 Order (areas of special scientific interest);
- (c) a national park within the meaning of the 1985 Order;
- (d) a nature reserve within the meaning of the 1985 Order;
- (e) 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 National Heritage(14);
- (f) a scheduled historic monument within the meaning of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995(15);
- (g) a European site within the meaning of regulation 9 of the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995(16);

“specified threshold” means any threshold specified in hectares in Column 2 or 3 of the Table in paragraph 2.

**Thresholds**

2. Subject to paragraph 3, for the purposes of regulation 3(3), the threshold for any project of a type specified in an entry in Column 1 in the Table is the area (if any) specified in the corresponding entry in Column 2 or 3 of the Table, whichever is appropriate to the land covered, or proposed to be covered, by that project.

TABLE

<i>Column 1</i> <i>Type of project</i>	<i>Column 2</i> <i>Threshold where any part of the land is in a sensitive area</i>	<i>Column 3</i> <i>Threshold where no part of the land is in a sensitive area</i>
Afforestation	2 hectares where the sensitive area is a National Park or an Area of Outstanding Natural Beauty. No threshold in the case of other sensitive areas.	5 hectares
Deforestation	0.5 hectares where the sensitive area is a National Park or an Area of Outstanding Natural Beauty. No threshold	1 hectare

(13) S.I. 1985/170 (N.I. 1)

(14) See Command Paper 9424

(15) S.I. 1995/1625 (N.I. 9)

(16) S.R. 1995 No. 380



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<i>Column 1</i> <i>Type of project</i>	<i>Column 2</i> <i>Threshold where any part of the land is in a sensitive area</i>	<i>Column 3</i> <i>Threshold where no part of the land is in a sensitive area</i>
	in the case of other sensitive areas.	
Forest road works	No threshold	1 hectare
Forest quarry works	No threshold	1 hectare

### **Thresholds for extending projects**

3.—(1) Where the project under consideration is an extending project—

- (a) the thresholds specified in the Table in paragraph 2 shall not apply; and
- (b) the threshold applicable for that project for the purposes of regulation 3(3) shall be instead such balance (if any), in hectares, of the area specified in Column 2 or, as the case may be, Column 3 in that Table opposite the entry in Column 1 for that type of project as remains after deduction of the accumulated material past project area.

(2) For the purposes of sub-paragraph (1)(b), it is immaterial whether any part of the accumulated material past project area is, or is not, in a sensitive area (or any kind of sensitive area).

(3) In this paragraph—

“extending project” means any project covering, or proposed to cover, land adjoining the area of one or more material past projects;

“material past project”, in relation to a particular extending project, means a project which—

- (a) is of the same type (as specified in regulation 3(2)) as that extending project; and
- (b) was completed after the coming into operation of these Regulations; and
- (c) was completed not more than five years before the proposed date for starting the work relating to that extending project;

“accumulated material past project area”, in relation to a particular extending project, means the total area covered by—

- (a) the material past project or, if more than one, all of them; and
- (b) every other project—
  - (i) whose area adjoins the material past project, or one of them; and
  - (ii) which satisfies conditions (a) to (c) in the definition of “material past project”.

### **Consideration of thresholds in other cases where a project adjoins or is near another project**

4.—(1) The facts—

- (a) that a project is or would be adjoining or, in the opinion of the Department, near another project of any type specified in regulation 3(2); and
- (b) that, for any reason, the case in question does not fall within paragraph 3,

may be regarded by the Department as rendering the circumstances of that project exceptional for the purposes of regulation 6(3) or (as the case may be) 7(6).

(2) This paragraph—

- (a) shall not affect the application of those regulations in a case which does fall within paragraph 3; and

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- (b) shall not be interpreted as limiting the generality of the references in those regulations to circumstances which are, in the opinion of the Department, exceptional.

### SCHEDULE 3

Regulations 6(2) and 7(5)

#### **Projects having significant effects on the environment – selection criteria**

##### *Characteristics of projects*

1. The characteristics of projects must be considered having regard, in particular, to:
  - the size of the project;
  - the cumulation with other projects;
  - the use of natural resources;
  - the production of waste;
  - pollution and nuisances;
  - the risk of accidents, having regard in particular to substances or technologies used.

##### *Location of projects*

2. The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard, in particular, to:
  - the existing land use;
  - the relative abundance, quality and regenerative capacity of natural resources in the area;
  - the absorption capacity of the natural environment; paying particular attention to the following areas:
    - (a) wetlands;
    - (b) coastal zones;
    - (c) mountain and forest areas;
    - (d) nature reserves and parks;
    - (e) areas classified or protected under Member States legislation; special protection areas designated by Member States pursuant to Directive 79/409/EEC on the conservation of wild birds<sup>(17)</sup> and 92/43/EEC on the conservation of natural habitats and wild fauna<sup>(18)</sup>;
    - (f) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
    - (g) densely populated areas;
    - (h) landscapes of historical, cultural or archaeological significance.

##### *Characteristics of the potential impact*

3. The potential significant effects of projects must be considered in relation to criteria set out under headings 1 and 2 above, and having regard, in particular, to:
  - the extent of the impact (geographical area and size of the affected population);

<sup>(17)</sup> O.J. No. L103, 25.4.79, p. 1

<sup>(18)</sup> O.J. No. L206, 22.7.92, p. 7

- the transfrontier nature of the impact;
- the magnitude and complexity of the impact;
- the probability of the impact;
- the duration, frequency and reversibility of the impact.

#### SCHEDULE 4

Regulations 15(3), 17(5) and 20(6)

##### **Environmental factors**

- (a) human beings, fauna and flora;
- (b) soil, water, air, climate and the landscape;
- (c) material assets and the cultural heritage; and
- (d) the interaction between the factors mentioned in paragraphs (a) to (c).

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#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations.)*

1. The Environmental Assessment (Forestry) Regulations (Northern Ireland) 1998 ([S.R. 1998 No. 437](#) – “the 1998 Regulations”) provided for the implementation in relation to forestry projects of Council Directive [85/337/EEC](#) (“the Directive”) on the assessment of the effects of certain public and private projects on the environment. The Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2000 amend the 1998 Regulations to implement changes to the Directive made by Council Directive [97/11/EEC](#). They also implement the extension of both Directives to the Contracting Parties of the European Economic Area (EEA) under Article 74 and Annex XX paragraph 1.1 of the Agreement on the European Economic Area, as given effect by Decision No. 20/1999 of the EEA Joint Committee adopted on 26th February 1999 (not yet published).

These Regulations restate the provisions in the 1998 Regulations with revisions and amendments and the 1998 Regulations are therefore revoked.

2. Regulation 2 defines terms used in the Regulations. As in the 1998 Regulations, there is a prohibition on carrying out any work or operations in relation to a project which is a “relevant project” (as defined) unless consent has been obtained from the Department. A further new provision gives the Department power, in accordance with Directive [85/337/EEC](#), as amended, to exempt particular projects from the application of the Regulations (regulation 4).

3. “Relevant project” is defined in regulation 3 as one of four types of project relating to forestry which does not constitute development regulated by the legislation on town and country planning but which is likely to have substantial effects on the environment. In a new provision, a project which covers an area falling below certain thresholds specified in Schedule 2 to the Regulations is to be treated as not likely to have substantial effects on the environment. However, the Department has power to treat such a project as a relevant project requiring consent where, in its opinion, exceptional circumstances make it likely that the project will have substantial effects on the environment.

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**4.** A person who proposes to carry out a project may apply to the Department for an opinion as to whether the project is a relevant project. If dissatisfied with that opinion he may apply to the Department to reconsider its opinion. In determining that issue account must be taken of the environmental criteria set out in Schedule 3. A new provision enables the Department to issue an opinion without receiving an application. An opinion that the project is not a relevant project will lapse if the project is not completed within five years (regulations 5 to 8).

**5.** The proposer of a project may also seek an opinion from the Department as to the information that should be included in the environmental statement attached to an application for consent (regulation 9).

**6.** Applications to the Department for consent for a relevant project must be accompanied by an environmental statement which must contain the information required by Schedule 1 to the Regulations. The Department may request further information and any other bodies holding relevant information are required to make it available. There are requirements to publish the application and any further information and to invite representations. Where it appears that the project may be likely to have significant effects on the environment in another State of the European Economic Area, provision is made for the authorities of that State to be consulted before a decision is made. In making its decision the Department is required to have regard to the environmental statement and the direct and indirect effects on environmental factors specified in Schedule 4. The Department's decision must be notified in writing (regulations 10 to 16).

**7.** Where consent is refused the person proposing the project may request the Department to reconsider its decision (regulation 17). There is a requirement that any consent granted by the Department be subject to specified conditions (regulation 18).

**8.** The Department is given powers to serve enforcement notices where relevant projects are carried out without consent or in breach of conditions. The person served with such a notice may request the Department to review an enforcement notice. Penalties are specified for breach of an enforcement notice. A power of entry and certain default powers are conferred on officers authorised by the Department (regulations 19 to 22).

**9.** The Department is required to keep a register of directions, opinions, and determinations for public inspection (regulation 23).

**10.** Transitional provisions apply, including treatment of ongoing applications etc. under the 1998 Regulations as if they had been made under these Regulations (regulation 24).