



EXPLANATORY MEMORANDUM

The Electricity Consents (Planning)
(Northern Ireland) Order 2006

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ELECTRICITY CONSENTS (PLANNING) (NORTHERN IRELAND) ORDER 2006

2006 No. 2955 (N.I. 19)

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Electricity Consents (Planning) (Northern Ireland) Order (“the Order”) was made on 14 November 2006.
2. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment (“the Department”) to assist the reader in understanding the Order. It does not form part of the Order.
3. The Order contains provisions to create an electricity consent regime similar to that in the Electricity Act 1989.

BACKGROUND AND POLICY OBJECTIVES

4. The Order amends the Electricity (Northern Ireland) Order 1992 (the 1992 Order) enabling the Department to grant deemed planning permission and deemed hazardous substances consent on an application for electricity consent made under Articles 39 (consent required for construction, extension or operation of an electricity generating station) or 40 (consent required for overhead lines) of the 1992 Order.
5. The Order is intended to streamline procedures for developers so that they do not have to apply separately to the Department for consent to construct or extend an electricity generating station or to install overhead electric lines and to the Department of Environment (DOE) for planning permission and hazardous substances consent.

CONSULTATION

6. The Department wrote to the Planning Appeals Commission, a cross-section of industry, political parties, the Northern Ireland Authority for Energy Regulation, and NGOs to inform them of the planned changes. The Department has also held targeted meetings with key industry representatives and Authority staff. However, no formal public consultation was held. Stakeholders were of the view that the Order should be introduced with the intention of speeding up the consent process. Ministers consider this Order a necessary first step in streamlining the energy project consent application process.

MAIN ELEMENTS OF THE ORDER

7. The Order has three Articles.

COMMENTARY ON PROVISIONS

8. Article 1 is introductory.
9. Article 2 makes it clear, by amending references to land in Schedule 8 of the Order, that the procedures relating to electricity consents apply for off-shore developments as well as on land.
10. Article 2 also inserts new paragraphs 1A, 1B and 1C into Schedule 8 of the 1992 Order:
 - new paragraph 1A enables the Department to prescribe procedures in respect of notification and objection to applications for electricity consents. Where objections to an application for an electricity consent have been received by the Department, it may cause an inquiry to be held and must consider the report of the inquiry in making its decision as to whether to grant the consent;
 - new paragraph 1B sets out requirements for notification of a public inquiry. The intention of this paragraph is to provide that the applicant (i.e. the developer or agent applying for consent for a generating station or overhead electric line) notifies those likely to be affected by or interested in the development so that they are informed of the material details of an inquiry into that application. The draft paragraph provides that the applicant must publish notice of the application and details of the inquiry where one is to be held in relation to that application;
 - new paragraph 1C allows the Department to appoint additional inspectors to assist in conducting an inquiry held under Article 66 of the 1992 Order. In line with GB legislation, this provision is intended to be used in order to streamline inquiries into major electricity and overhead line developments by allowing lead inspectors to be assisted by further inspectors to share the work and allow issues to be considered concurrently rather than sequentially. It is not anticipated that this provision would be used for all public inquiries into applications for electricity consent since most inquiries could be adequately handled by a single inspector. In the Northern Ireland context, this provision would only be used where the Planning Appeals Commission was not appointed to carry out the inquiry on DETI's behalf.

Article 2 also inserts new paragraph 3 into Schedule 8 of the 1992 Order to allow the Department on granting an electricity consent to direct that planning permission is deemed to be granted, and on granting consent under Article 39 (for an electricity generating station) that hazardous substances consent is deemed to be granted.

11. Article 3 amends Article 65 of the 1992 Order so that it no longer allows for planning and electricity consent procedures to be carried out concurrently. This is no longer necessary since developers will, under amendments made by this Order, be able to apply to DETI for both the necessary electricity consent and deemed planning permission. Article 3 also inserts new paragraphs 3, 4 and 5 into Article 65 of the 1992 Order. These allow for concurrent proceedings to be taken on applications for wayleaves and felling and lopping of trees with electricity consent proceedings.

COMMENCEMENT

12. The Order shall come into operation on such day or days as the Department may by order appoint.



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