

1984 No. 434

## TOWN AND COUNTRY PLANNING

**Planning (General Development) (Amendment) Order  
(Northern Ireland) 1984**

*Made* . . . . . 17th December 1984

*Coming into operation* . . . . . 1st February 1985

The Department of the Environment, in exercise of the powers conferred by Article 13 of the Planning (Northern Ireland) Order 1972(a) and now vested in it(b), and of every other power enabling it in that behalf, makes the following Order:—

*Citation and commencement*

1. This Order may be cited as the Planning (General Development) (Amendment) Order (Northern Ireland) 1984 and shall come into operation on 1st February 1985.

*Amendment*

2. The Planning (General Development) Order (Northern Ireland) 1973(c) shall be amended as follows:—

(a) in Article 2(1)—

(i) after the definition of “class” insert the following definition:—

“ “the Department” means the Department of the Environment;”;

(ii) after the definition of “dwellinghouse” insert the following definition:—

“ “hazardous substance” has the meaning assigned to that term by regulation 2(1) of the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984”; (d);

(iii) after the definition of “mining undertakers” insert the following definition:—

“ “notifiable quantity” has the meaning assigned to that term by regulation 2(1) of the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984;”;

(iv) after the definition of “painting” insert the following definition:—

“ “pipe-line” means a pipe (together with apparatus and works associated therewith), or system of pipes (together with apparatus and works associated therewith), for the conveyance of anything other than air, water, water vapour or steam, not being—

(a) a drain or sewer; or

(b) a pipe or system of pipes constituting or comprised in apparatus for heating or cooling or for domestic purposes; or

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(a) S.I. 1972/1634 (N.I. 17)

(b) S.R. & O. (N.I.) 1973 No. 504; S.I. 1976/424 (N.I. 6)

(c) S.R. & O. (N.I.) 1973 No. 326 as amended by S.R. 1981 No. 222

(d) S.R. 1984 No. 177

- (c) a pipe or system of pipes on the site of any operations or works to which certain provisions of the Factories Act (Northern Ireland) 1965(a) apply by virtue of section 125(1) (building operations and works of engineering construction) of that Act; or
- (d) a pipe or system of pipes wholly situate within the boundaries of an agricultural unit and designed for use for purposes of agriculture; or
- (e) a pipe or system of pipes wholly situate in premises used for the purposes of education or research; or
- (f) a pneumatic despatch-tube.

For the purposes of this definition, the following apparatus and works, and none other, shall be treated as being associated with a pipe, or system of pipes, namely—

- (a) apparatus for inducing or facilitating the flow of anything through the pipe or, as the case may be, through the system or any part thereof;
- (b) valves, valve chambers, manholes, inspection pits and similar works, being works annexed to, or incorporated in the course of, the pipe or system;
- (c) apparatus for supplying energy for the operation of any such apparatus as is mentioned in (a) or of any such works as are mentioned in (b);
- (d) apparatus for the transmission of information for the operation of the pipe or system;
- (e) apparatus for affording cathodic protection to the pipe or system;
- (f) a structure for the exclusive support of a part of the line or system.”.

(b) in Article 3 (permitted development)—

(i) for paragraph (1) there shall be substituted the following paragraph:—

“(1) Subject to the subsequent provisions of this Order, development of any class specified in Schedule I is permitted by this Order and may be undertaken upon land to which this Order applies, without the permission of the Department:

Provided that—

- (a) the permission granted by this Order in respect of any such class of development shall be defined by any limitation and be subject to any condition imposed in that Schedule in relation to that class; and
- (b) the permission granted by this Order in respect of any such class of development shall be subject to the condition that no building, plant or machinery, or structure or erection in the nature of plant or machinery (other than a mains, pipe or other apparatus belonging to a gas undertaker), authorised by the permission, and no floor space created by development authorised by the permission, shall be used for a purpose which involves the manufacture, processing, keeping or use of a hazardous substance in such circumstances as will result in there being at any one time a notifiable quantity of such substance in, on, over or under the land on which the building, plant or machinery, structure or erection or floorspace is situated, or any site of which that land forms part.”;

(ii) the following paragraphs shall be inserted after paragraph (2):—

“(2A) The permission granted by this Article and Schedule 1 shall not operate so as to permit the carrying out of development for a purpose which involves, or is likely to involve, either:—

- (a) the laying or construction of a pipe-line which contains, or is intended to contain a hazardous substance; or
- (b) the manufacture, processing, keeping or use of a hazardous substance in such circumstances (in any of those cases) as will result in there being at any one time a notifiable quantity of a hazardous substance in, on, over or under the land on which the development would be carried out, or any site of which that land forms part, except in the following cases:—
  - (i) where the development is to be carried out in, on, over or under land which constitutes or forms part of a site in respect of which notification has been given to the Department of Economic Development in pursuance of regulation 3(1) of the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984 and the carrying out of the development is not likely to result in an increase in the quantity of such substance present at any one time in, on, over or under the land to a quantity which exceeds three times the quantity in respect of which such notification was last given;
  - (ii) where there is already a notifiable quantity of a hazardous substance present on the land in, on, over or under which the development is to be carried out but that development is exempted from the requirements of said regulation 3(1) by virtue of an exemption certificate granted under regulation 6 of those Regulations and the carrying out of the development is not likely to result in an increase in the quantity of such substance present at any one time in, on, over or under that land to a quantity which exceeds three times the quantity present immediately before the development is begun;
  - (iii) where the development is to be carried out by a gas undertaker and consists of the laying of mains, pipes or other apparatus;
  - (iv) where the development is for the purpose of inspecting, repairing or renewing mains, pipes or other apparatus.

(2B) For the purposes of paragraphs (1) and (2A), “site” means the whole of an area of land within a single unit of occupation.”.

- (c) for Article 9 (consultation as to applications for permission), there shall be substituted the following:—

“9. Before deciding an application for planning permission, the Department shall:—

- (a) consult the district council for the area in which the land to which the application relates is situated and shall, in determining the application, take into account any representations received from the council;
- (b) where it appears to the Department that the development will involve the manufacture, processing, keeping or use of a hazardous substance in such circumstances that, at any one time, there is likely to be, or will be a notifiable quantity of such substance in, on, over or under any land, consult with the Department of Economic Development.”.
- (d) for Class 11C(a) in Schedule 1, there shall be substituted the following:—
  - “(a) the laying underground of mains, pipes, or other apparatus, so long as:—

- (i) not less than 8 weeks before the commencement of operations for the laying of a pipe-line which contains or is intended to contain a hazardous substance, the undertaker shall give notice in writing to the Department, of the intention to carry out such development, identifying the land under which the pipe-line is to be laid;
- (ii) on completion of the laying or construction of the relevant main or pipe, or at the expiration of nine months from the date of commencement of those operations, whichever is the sooner, such pipes and apparatus as are not underground shall be removed and the land restored to its condition before the development took place.”.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 17th December 1984.

(L.S.)

*R. H. Mackenzie*

Assistant Secretary

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#### EXPLANATORY NOTE

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

This Order amends the Planning (General Development) Order (Northern Ireland) 1973, which provides for the granting of permission for the development of land under Part IV of The Planning (Northern Ireland) Order 1972 and itself permits certain developments to be carried out without a grant of planning permission from the Department.

The amendments relate to development involving, or likely to involve, the presence of a notifiable quantity of a hazardous substance within the meaning of regulation 2(1) of the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984.

The following changes are made in the Order of 1973:—

- (a) the addition of a new paragraph 2A to Article 3 (which grants permission for development within the classes set out in Schedule 1 to the Order) to exclude from the permission granted by the Article, any development which involves, or is likely to involve either (a) the laying or construction of a pipe line which contains or is intended to contain a hazardous substance; or (b) the presence of a notifiable quantity of a hazardous substance; or (c) where a hazardous substance is already present on the land in a notifiable quantity, development which will, or is likely to, lead to a more than three-fold increase in the amount present. Permission continues to be given under Article 3, however, for the laying of gas mains, gas pipes and gas apparatus and development for the purpose of inspecting, repairing or renewing all kinds of mains, pipes and other apparatus (Article 2(b));
- (b) the amendment of Article 3(1) to provide that permission granted by the Article is subject to the condition that no permitted building, plant or machinery (other than mains, pipes and other apparatus belonging to gas undertakers) shall be used for any purpose which will result in the presence of a notifiable quantity of a hazardous substance (Article 2(b));

- (c) the amendment of Article 9 to require the Department to consult with the Department of Economic Development in relation to any development which appears to be likely to give rise to the presence of a notifiable quantity of a hazardous substance (Article 2(c));
- (d) the amendment of Class 11C(a) of Schedule 1 (which prescribes the range of operations and uses, known as permitted development, which may be carried out without applying for planning permission) to require a gas undertaking to give notice in writing to the Department, of an intention to lay a pipe-line, which contains, or is intended to contain a hazardous substance, such notice to be given not less than 8 weeks before the commencement of operations and, on completion of the operations or 9 months after their commencement, whichever is the sooner, to remove such pipes and apparatus as are not underground and restore the land to its former condition (Article 2(d)).

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**1984 Nos. 435, 436, 437, 438, 439, 440**

These Orders have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.