

1994 No. 395

PLANNING

**Planning (Assessment of Environmental Effects)
(Amendment) Regulations (Northern Ireland) 1994**

Made 14th October 1994

Coming into operation 28th November 1994

The Department of the Environment, being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) 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 that section and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Planning (Assessment of Environmental Effects) (Amendment) Regulations (Northern Ireland) 1994 and shall come into operation on 28th November 1994.

Amendment of Regulations

2.—(1) The Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989(c) are amended in accordance with paragraphs (2) to (11).

(2) In regulation 2(2) (interpretation) after the definition of “the 1972 Order” insert—

“ “the 1991 Order” means the Planning (Northern Ireland) Order 1991(d);”.

(3) After regulation 3(1) (application for planning permission requiring an environmental statement) add the following paragraph—

“(1A) 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.”.

(4) For regulation 4(7) (application to determine whether environmental statement required) substitute the following paragraph—

(a) S.I. 1988/785

(b) 1972 c. 68

(c) S.R. 1989 No. 20

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

“(7) If 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 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.”.

(5) In regulation 5(4) (application for planning permission without environmental statement) after the words “as applied by paragraph (2),”, add the words “that he accepts the determination, or”.

(6) For regulation 7 (availability of information in relation to a determination) substitute—

“7. The Department shall place a copy of any—

- (a) notification under regulation 3(2)(a); or
- (b) determination under regulation 4 or 5; or
- (c) determination under regulation 4 or 5 confirmed or amended under regulation 6,

on a register kept in pursuance of Article 124(1) of the 1991 Order.”.

(7) Regulation 10 (consultation where environmental statement submitted) shall be amended as follows—

- (a) in paragraph 1(a) for the words “the register” to the end substitute “a register required to be kept in pursuance of Article 124(1) of the 1991 Order; and”; and
- (b) in paragraph (3) delete the words “and shall not take such information into consideration until after the expiration of the period of such notice”.

(8) After regulation 11 insert the following regulation—

“*Further information relating to environmental statement*

11A.—(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 paragraph 3 of Schedule 3; 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 in writing to submit such further information.

(2) Regulations 10 and 11 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.”.

(9) In regulation 12 (availability of an environmental statement) after the words “copies of it” insert the words “and any further information supplied to the Department pursuant to regulation 11A”.

(10) At the end of regulation 14(2) add the words “or where further information is requested by the Department under regulation 11A, from the receipt of that information.”

(11) In regulation 17 after the word “direct” insert “in accordance with Article 2(3) of Council Directive 85/337/EEC(a)”.

Sealed with the Official Seal of the Department of the Environment on
14th October 1994.

(L.S.)

J. McConnell

Assistant Secretary

(This note is not part of the Regulations.)

These Regulations amend the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989 (the "1989 Regulations") which seek to implement Council Directive 85/337/EEC (O.J. No. L175, 5.7.85, p. 40) on the assessment of the effects of certain public and private projects on the environment. The 1989 Regulations deal with applications for planning permission under the Planning (Northern Ireland) Order 1991. The main changes to the 1989 Regulations are—

(1) the amendment of regulation 3 to require the Department or the Planning Appeals Commission (PAC), when granting planning permission in respect of an application to which that regulation applies, to state in the notice to the applicant that it has taken environmental information into consideration (regulation 2(3));

(2) the amendment of regulations 4(7) and 5(4) to require the applicant to inform the Department if he accepts the determination that an environmental statement is required (regulation 2(4) and (5));

(3) the substitution of regulation 7 with a new regulation providing that any notification issued by the Department under regulation 3(2)(a) as well as any determination under regulations 4 or 5, or any confirmation or determination under regulation 6 must go on the planning register (regulation 2(6));

(4) the insertion of a new regulation 11(A) permitting the Department or the PAC to require further environmental information. Consultation and publicity is required where such further information is received by the Department. Minor amendments have also been made to regulations 12 and 14 consequential to the receipt of such information by the Department (regulation 2(8)-(10)); and

(5) the amendment of regulation 17 to make it clear that a direction by the Department exempting a specific development from the need to prepare an environmental statement means a direction in accordance with Article 2(3) of Council Directive 85/337/EEC (regulation 2(11)).

Copies of Council Directive 85/337/EEC are available from the Commission of the European Communities, Windsor House, 9/15 Bedford Street, Belfast BT2 7EG.