
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 446

**Drainage (Environmental Assessment)
(Amendment) Regulations (Northern Ireland) 1998**

Part III

Drainage Schemes

Amendment of the Drainage Order

14. The Drainage Order shall be amended in accordance with regulations 15 to 17.

Drainage Order: interpretation

15. In Article 2—

- (a) in paragraph (2) before the definition of “authorised” there shall be inserted—
““another member State” means a member State other than the United Kingdom;”;
- (b) after paragraph (2) there shall be added—
“(2A) In this Order, any reference to significant effects on the environment shall include a reference to such effects on the environment in another member State.”.

Publicity for drainage schemes

16. For Articles 12, 12A and 13 there shall be substituted—

“Publicity for drainage schemes

12.—(1) Where the Department has prepared a drainage scheme it shall consider whether the works specified in the scheme are likely to have significant effects on the environment, and ought, therefore, to be made subject to an environmental statement.

(2) Where, pursuant to paragraph (1), the Department considers that the works specified in the scheme ought to be made subject to an environmental statement, it shall by notice published in the Belfast Gazette and at least two local newspapers—

- (a) announce that it proposes to carry out the works specified in the scheme;
- (b) describe briefly the nature, size and location of those works; and
- (c) state that the Department proposes to make those works subject to an environmental statement.

(3) Where, pursuant to paragraph (1), the Department considers that the works specified in the scheme ought not to be made subject to an environmental statement, it shall by notice published in the Belfast Gazette and at least two local newspapers—

- (a) announce that it proposes to carry out the works specified in the scheme;

- (b) describe briefly the nature, size and location of those works;
 - (c) state that it does not propose to make those works subject to an environmental statement; and
 - (d) state that any person may make representations to the Department in writing in relation to the likely environmental effects of those works at an address specified in the notice within 28 days of the date of the publication of the notice in the Belfast Gazette.
- (4) Every notice published pursuant to paragraph (2) or (3) shall—
- (a) state the place or places at which, and the period, not being less than 28 days following the date of the publication of the notice in the Belfast Gazette, during which a copy of the scheme will be available for inspection; and
 - (b) contain a statement that any person who considers that his interests will be prejudicially affected by the scheme may, at any time within 28 days of the date of the publication of the notice in the Belfast Gazette, send to the Department any representations with regard to the scheme which he wishes to make.
- (5) Where, pursuant to paragraph (2) or (3), the Department publishes a notice, it shall send a copy of that notice to—
- (a) the Drainage Council;
 - (b) the district council of the district or, as the case may be, each district in which the watercourses or the sea defences proposed to be dealt with are situate; and
 - (c) any other person who appears to it to have an interest in the matter.
- (6) Where the Department has prepared a drainage scheme it shall send a copy of the scheme, together with an estimate of the cost of the scheme, to the district council of the district or, as the case may be, each district in which the watercourses or the sea defences proposed to be dealt with are situate.
- (7) A district council to which a copy of a drainage scheme is sent by the Department pursuant to paragraph (6)—
- (a) shall cause the copy to be exhibited at its principal office or other convenient place during the period of 28 days from the date of the publication in the Belfast Gazette of the notice relating to the scheme and shall permit the copy to be inspected by any person;
 - (b) shall examine and consider the scheme; and
 - (c) may, at any time within the period referred to in sub-paragraph (a), send to the Department any representations with regard to the scheme which it wishes to make.

Preparation of an environmental statement and consultations thereon

12A.—(1) Where the Department has stated pursuant to Article 12(2)(c) that it proposes to make the works specified in a drainage scheme subject to an environmental statement, it shall proceed to prepare such a statement.

(2) The Department shall consider any representations made in accordance with Article 12(3)(d) and if, having done so, it decides that works specified in a drainage scheme ought to be made subject to an environmental statement, it shall so inform the persons who made those representations and proceed to prepare such a statement.

(3) Where the Department has prepared an environmental statement in relation to the works specified in a drainage scheme, it shall—

- (a) by notice published in the Belfast Gazette and at least two local newspapers announce the preparation of the statement and state that any person who wishes to make representations in relation to the likely environmental effects of the works to which the statement relates should make them in writing to the Department at the address specified in the notice within 28 days of the date of the publication of the notice in the Belfast Gazette;
 - (b) make available for inspection at an office of the Department or at some other convenient place, for a period of at least 28 days following the date of the publication of the notice in the Belfast Gazette, the details of the drainage scheme and the environmental statement relating to the works therein specified, and ensure that a reasonable number of copies of the statement are made available;
 - (c) state in the notice referred to in sub-paragraph (a), the address and the times at which copies of the environmental statement may be inspected or obtained and, if a charge is to be made for a copy thereof under paragraph (12), the amount of the charge; and
 - (d) at the same time as the notice referred to in sub-paragraph (a) is published supply copies of the statement to—
 - (i) the Drainage Council;
 - (ii) the district council of the district or, as the case may be, each district in which the watercourse or sea defences proposed to be dealt with are situate; and
 - (iii) any other person who appears to it to have an interest in the matter.
- (4) Where in accordance with paragraph (3)(d)(i) to (iii) the Department sends any person a copy of an environmental statement it shall consult with that person about the statement and the likely environmental effects of the works to which it relates.
- (5) Where under paragraph (4) the Department consults with any person about an environmental statement, it shall give that person not less than 28 days notice beginning with the day on which it sends a copy of the environmental statement to him, that it proposes to consider the statement and shall not do so until after the expiration of that period.
- (6) Subject to paragraph (11), where the Department proposes to prepare an environmental statement in accordance with this Article it may enter into consultations with any person to determine whether that person has in his possession any information which the Department considers relevant to the preparation of the statement and that person shall make any such information which he has available to the Department.
- (7) Where the Department has prepared an environmental statement in relation to the works specified in a drainage scheme and has made the statement available in accordance with paragraph (3), it may determine that further information is relevant to any matter which is required to be, or may be, dealt with in the statement.
- (8) Subject to paragraph (11), the Department may enter into consultations with any person to determine whether that person has in his possession any further information which the Department considers relevant to the statement and that person shall make any such further information which he has available to the Department.
- (9) Where, pursuant to paragraph (8), the Department obtains any further information it shall—
- (a) by notice published in the Belfast Gazette and at least two local newspapers announce that the further information is available, and give details of the time and place where a copy of that further information may be inspected or obtained and, if a charge is to be made for a copy thereof under paragraph (12), the amount of the charge; and

- (b) state that any person who wishes to make representations in relation to that further information should make them in writing to the Department at an address specified in the notice within 28 days of the date of the publication of the notice in the Belfast Gazette.
- (10) At the same time as the notice referred to in paragraph (9)(a) is published, the Department shall supply copies of the further information to—
 - (a) the Drainage Council;
 - (b) the district council of the district or, as the case may be, each district in which the watercourses or sea defences proposed to be dealt with are situate; and
 - (c) any other person who appears to it to have an interest in the matter.
- (11) Nothing in paragraph (6) or (8) shall require the disclosure by any person of confidential information.
- (12) A reasonable charge reflecting printing and distribution costs may be made to any person for—
 - (a) any copy, in excess of one, of the whole or any part of an environmental statement supplied to that person in accordance with paragraph (3)(d)(i) to (iii); or
 - (b) any copy, in excess of one, of the whole or any part of any further information supplied to that person in accordance with paragraph (10)(a) to (c).
- (13) A reasonable charge reflecting the cost of making information available in accordance with paragraph (6) or (8) may be made to the Department by any person making it available.

Drainage schemes likely to have a significant effect on the environment in another member State

- 12B.—**(1) Where it appears to the Department that works specified in a proposed drainage scheme are likely to have significant effects on the environment in another member State or where another member State thus potentially affected so requests, the Department shall forward to that other member State—
- (a) a copy of the environmental statement prepared in respect of that scheme in accordance with Article 12A(1) or (2);
 - (b) a copy of any further information relevant to the environmental statement and obtained pursuant to Article 12A(8).
- (2) Any copy of the environmental statement forwarded to another member State in accordance with paragraph (1)(a) shall be forwarded to that other member State at the same time as the publication in the Belfast Gazette of the notice mentioned in Article 12A(3)(a).
- (3) Any copy of the further information forwarded to another member State in accordance with paragraph (1)(b) shall be forwarded to that other member State at the same time as the publication in the Belfast Gazette of the notice mentioned in Article 12A(9)(a).
- (4) Where, pursuant to paragraph (1), the Department forwards to another member State a copy of the environmental statement or the further information relevant to the environmental statement, it shall give that other member State not less than 28 days beginning with the day on which it forwards the copy of the environmental statement or the further information to the member State, to consider the environmental statement or further information, as the case may be, and to make representations in relation to the likely environmental effects of the scheme.

Confirmation of drainage schemes

13.—(1) Where the Department has stated in accordance with Article 12(3)(c) that it does not propose to make the works specified in a drainage scheme subject to an environmental statement and where either—

- (a) no representations made in accordance with Article 12(3)(d) are received in relation to those works within the time limit therein specified; or
- (b) such representations are so received but the Department, after considering them, decides that the works ought not to be made subject to an environmental statement,

it may, after the expiration of 28 days from the expiration of the time limit referred to in subparagraph (a), after considering any representations sent to it under Article 12(4)(b) and after holding such inquiry, if any, as it considers necessary, by order confirm the scheme in whole or in part, either without modification or with such modifications as the Department thinks fit.

(2) Subject to paragraph (3), where the Department has prepared an environmental statement in relation to the works specified in a drainage scheme it may, after the expiration of 28 days from the expiration of the period of notice referred to in article 12A(5) and after holding such inquiry, if any, as it considers necessary, by order confirm the scheme in whole or in part, either without modification or with such modifications as the Department thinks fit.

(3) Where the Department has prepared an environmental statement in relation to the works specified in a drainage scheme, it shall not, under paragraph (2), confirm the scheme unless it has first taken into consideration—

- (a) the statement;
- (b) any information relevant to it and obtained pursuant to Article 12A(8);
- (c) the works specified in the drainage scheme;
- (d) any representations sent to it under Article 12(4)(b);
- (e) any representations made in accordance with Article 12(3)(d) or Article 12A(3) or (9) by any person and which are received within the time limits therein respectively specified; and
- (f) any representations made by another member State in accordance with Article 12B(4) in relation to the likely environmental effects of those works and which are received within the time limit therein specified.

(4) Where, having complied with paragraph (3), the Department decides to confirm the scheme in accordance with paragraph (2), it shall inform in writing any person or member State which made representations in accordance with Article 12(3)(d), Article 12A(3) or (9) or Article 12B(4) of its decision and of the reasons and considerations upon which it was based and that in making it the Department has taken into consideration the matters specified in paragraph (3)(a) to (f).

(5) In this Article, “modification” includes a variation, addition or exception.”.

Amendment of drainage schemes

17. For Article 16 there shall be substituted—

“Amendment of drainage schemes

16.—(1) Where, in the course of carrying out works specified in a drainage scheme, the Department considers that any provisions of that scheme ought to be substantially varied, it may, subject to paragraphs (2) and (3), after consultation with the Drainage Council and after giving notice to—

- (a) such person as the Department considers likely to be materially affected; and
- (b) any person or member State which made representations under Article 12(3)(d) or Article 12A(3) or (9) or Article 12B(4),

direct that such variations be made therein as appear to be necessary.

(2) The Department shall not direct that any variation be made in a drainage scheme unless it has first taken into consideration—

- (a) the environmental statement (if any) relating to the works specified in the scheme;
- (b) any information relevant to it and obtained pursuant to Article 12A(8);
- (c) the works specified in the scheme as the Department proposes to vary it;
- (d) any representations made in accordance with Article 12(3)(d) or Article 12A(3) or (9) which are received by the Department within the time limits therein respectively specified; and
- (e) any representations made by another member State in accordance with Article 12B(4) in relation to the likely environmental effects of those works and which are received within the time limit therein specified.

(3) Where, pursuant to paragraph (1), the Department gives notice of the variation of a drainage scheme which has been made subject to an environmental statement such notice shall be given in writing and shall indicate the reasons and considerations upon which the variation was based and that the Department has taken into consideration the matters specified in paragraph (2)(a) to (e).

(4) Where a direction given under this Article varies a drainage scheme, that scheme shall have effect, and be deemed always to have had effect, subject to that direction and, accordingly, references in this Order to a drainage scheme shall, in relation to that scheme, be construed and have effect as referring to that scheme as varied by that direction.

(5) A direction given under this Article shall not have effect so as to authorise the Department to purchase land compulsorily for the purposes of the drainage scheme otherwise than in accordance with, and subject to, the provisions of Article 10(3) and (4) and Schedule 3.”.