
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 394

**Drainage (Environmental Impact Assessment)
Regulations (Northern Ireland) 2001**

Part II

Drainage Works and Marina Works Generally

Restriction on proposed works

4. The Department shall not—
- (a) carry out any drainage works or marina works;
 - (b) co-operate, in pursuance of Article 30(1) of the Drainage Order, with any person outside Northern Ireland in preparing or carrying out schemes for drainage works;
 - (c) enter into or carry into effect, in pursuance of Article 30(2) of the Drainage Order, an agreement or arrangement with such a person for the purposes of such a scheme; or
 - (d) enter into any arrangement with another body or person in pursuance of Article 46 or Article 47(2) of the Water Order with a view to exercising any power to carry out marina works,

unless it has complied with the requirements of these Regulations in relation to the works in question and, in any case where a proposal relating to those works has been referred to the Commission under regulation 14(4)—

- (i) the Commission has consented to the carrying out of the works; and
- (ii) the works are carried out in accordance with any conditions to which the consent is subject.

Consideration whether proposed works have significant effects on the environment

5. The Department shall consider, taking into account the selection criteria in Schedule 2B to the Drainage Order, whether any proposed drainage works or marina works (in this Part referred to as 'the proposed works') are likely to have significant effects on the environment.

Determinations following consideration of works under regulation 5

6.—(1) Where, pursuant to regulation 5, the Department considers that the proposed works are not likely to have significant effects on the environment, it shall, by notice published in the Belfast Gazette and at least two local newspapers—

- (a) state that it proposes to carry out the works in question;
- (b) describe briefly the nature, size and location of the proposed works;
- (c) state that it does not propose to prepare an environmental statement in respect of the works; and

(d) state that any person may make representations to the Department in writing in relation to the likely environmental effects of the proposed works at an address specified in the notice within 28 days of the date of the publication of the notice in the Belfast Gazette.

(2) Where the Department publishes a notice in accordance with paragraph (1) in relation to any proposed works it shall, on or before the date of the publication of the notice in the Belfast Gazette, 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 proposed works are situate; and
- (c) any other person who appears to it to have an interest in the matter including, where appropriate, another EEA State.

(3) Where, within the period specified in paragraph (1)(d), no representations have been made to the effect that the proposed works are likely to have significant effects on the environment, the Department may proceed to carry out those works or do such other thing in relation to them as is mentioned in regulation 4.

(4) Where, following the period specified in paragraph (1)(d), the Department considers (whether in the light of any representations or otherwise) that the proposed works are likely to have significant effects on the environment, it shall make a determination accordingly.

(5) Where, within the period specified in paragraph (1)(d), any representations have been made to the effect that the proposed works are likely to have significant effects on the environment and, notwithstanding those representations, the Department considers that the works are not likely to have significant effects on the environment, it shall apply to the Commission for a determination of whether the works are likely to have significant effects on the environment and shall provide the Commission with all the relevant information and copies of all relevant documents in its possession.

(6) Where the Commission considers that the information and the copy documents provided in accordance with paragraph (5) do not provide sufficient information to enable it to make a determination for the purposes of that paragraph, it shall notify the Department in writing of the matters on which further information is required and may make a written request to the Department for such information as the Department may be able to provide on the matters raised.

(7) Where an application is made to the Commission under paragraph (5) in relation to any proposed works the Commission shall, taking into account the selection criteria in Schedule 2B to the Drainage Order, determine whether the proposed works are likely to have significant effects on the environment and shall inform the Department, and any person who made representations under paragraph (1)(d) in relation to the works, of its determination.

(8) Where an application is made to the Commission under paragraph (5) in relation to any proposed works, the Commission shall, prior to making a determination for the purposes of that paragraph, afford the Department and any person who made representations under paragraph (1)(d) in relation to the proposed works the opportunity of appearing before and being heard by the Commission.

Notification of determination that proposed works are likely to have significant effects on the environment

7.—(1) This regulation applies to any case where—

- (a) under regulation 6(4), the Department determines that any proposed works are likely to have significant effects on the environment; or
- (b) under regulation 6(7), the Commission determines that any proposed works are likely to have significant effects on the environment.

(2) In any case to which this regulation applies, the Department shall by notice published in the Belfast Gazette and at least two local newspapers—

- (a) describe briefly the nature, size and location of the proposed works in question;
- (b) state that the proposed works are likely to have significant effects on the environment and that the Department intends to prepare an environmental statement in respect of them;
- (c) indicate whether the proposed works are likely to have significant effects on the environment in another EEA State.

(3) Where the Department publishes a notice in accordance with paragraph (2) it shall, on or before the date of the publication of the notice in the Belfast Gazette, 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 proposed works are situate; and
- (c) any other person who appears to it to have an interest in the matter including, where appropriate, another EEA State.

Preparation of an environmental statement

8. The Department shall prepare an environmental statement in any case to which regulation 7 applies.

Request about the information to be included in an environmental statement

9.—(1) The Department may request the Commission to give an opinion as to the information to be contained in any environmental statement.

(2) Where the Department requests an opinion under paragraph (1) before a determination has been made under regulation 6(4) or (7), the Commission shall deal with the request on the assumption that the works will have significant effects on the environment.

(3) Before giving an opinion under paragraph (1) in relation to any proposed works the Commission shall consult—

- (i) the Department;
- (ii) the Drainage Council;
- (iii) the district council of the district or, as the case may be, each district in which the proposed works are situate; and
- (iv) any other person who appears to it to have an interest in the matter including, where appropriate, another EEA State.

(4) Giving an opinion under this regulation shall not preclude the Commission from requesting further information from the Department under regulation 14(5).

Assistance in preparation of environmental statements

10.—(1) Subject to paragraph (6), where the Department is required to prepare an environmental statement in pursuance of regulation 8 it may consult with any person to determine whether that person has in his possession any information which may be relevant to the preparation of the environmental statement and if that person has any such information, he shall make that information available to the Department.

(2) Where the Department has prepared an environmental statement in relation to any proposed works and made that statement available in accordance with regulation 11(4), the Department, as the case may be, or the Commission acting in accordance with regulation 14(5), may determine that

further information is relevant to any matter which is required to be, or may be, dealt with in the statement.

(3) Subject to paragraph (6), the Department may consult with any person to determine whether that person has in his possession any further information which the Department considers relevant to the environmental statement and if that person has any such information, he shall make that information available to the Department.

(4) Where, pursuant to paragraph (3), the Department obtains any further information it shall—

- (a) by notice published in the Belfast Gazette and at least two local newspapers state that the further information is available, and give details of the places where and times at which a copy of that further information may be inspected or obtained and, if a charge is to be made for a copy thereof under regulation 12, the amount of the charge; and
- (b) state that any person who wishes to make representations in relation to the further information should make such representations 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.

(5) At the same time as the notice referred to in paragraph (4)(a) is published, the Department shall—

- (a) send copies of the further information to:
 - (i) the Drainage Council;
 - (ii) the district council of the district or, as the case may be, each district in which the proposed works are situate; and
 - (iii) any other person who appears to it to have an interest in the matter including, where appropriate, another EEA State;
- (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 further information, the details of the proposed works and the environmental statement relating to the works in question, and ensure that a reasonable number of copies of the information are made available.

(6) Nothing in paragraph (1) or (3) shall require the disclosure by any person of 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(1).

(7) Any person making information available to the Department in accordance with paragraph (1) or (3) may make a reasonable charge reflecting the cost thereof and the Department shall pay that charge.

Publicity for an environmental statement

11.—(1) Where the Department has prepared an environmental statement in relation to any proposed works, it shall publish a notice in accordance with paragraphs (2) and (3).

(2) The notice shall—

- (a) state that the statement has been prepared and give details of the places where and times at which copies, together with details of the proposed works to which the statement relates, may be inspected;
- (b) state that any person wishing to make representations in relation to the likely environmental effects of the proposed works to which the statement relates shall make

(1) S.R. 1993 No. 45 as amended by S.R. 1998 No. 238

- them in writing to the Department at the address specified in the notice within 28 days of the publication of the notice; and
- (c) state that where no objection in relation to the likely environmental effects of the works is made and the Department, having undertaken the assessment specified in regulation 14 (1), considers that the works should proceed, it may so determine.
- (3) The notice shall be published in the Belfast Gazette and at least two local newspapers.
- (4) On or before the date of publication in the Belfast Gazette of the notice referred to in paragraph (1), the Department shall—
- (a) send a copy of the environmental statement and notice to—
 - (i) the Drainage Council;
 - (ii) the district council of the district or, as the case may be, each district in which the proposed works to which the statement relates are situate; and
 - (iii) any other person who appears to it to have an interest in the matter including, where appropriate, another EEA State,so that any such person has an opportunity to make representations on the likely environmental effects of the works to which the statement relates before the expiry of the period specified in the notice;
 - (b) make available at an office of the Department or some other convenient place for a period of at least 28 days following the date of publication of the notice in the Belfast Gazette, the details of the proposed works and the environmental statement relating to the works and ensure that a reasonable number of copies of the statement are made available.

Charges

12. The Department may make a reasonable charge reflecting printing and distribution costs 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 regulation 11(4); 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 regulation 10(5).

Proposed works likely to have significant effect on the environment in another EEA State

13.—(1) Where it appears to the Department that any proposed works are likely to have a significant effect on the environment in another EEA State or where another EEA State likely to be significantly affected so requests, the Department shall—

- (a) send to that State, as soon as possible and no later than the date of publication in the Belfast Gazette of the notice referred to in regulation 7(2)—
 - (i) a copy of the notice;
 - (ii) a description of the proposed works together with any available information on their possible significant effects on the environment in that EEA State; and
 - (iii) information on the nature of the determination which may be made;
- (b) publish the information referred to in sub-paragraph (a)(iii) in a notice in the Belfast Gazette with an indication of the source from which additional information is available;
- (c) give the EEA State not less than 28 days beginning the day on which the Department forwards a copy of the notice and other information under sub-paragraph (a) to indicate whether it wishes to be consulted further in accordance with paragraphs (2) to (5).

(2) Where the EEA State indicates, under paragraph (1)(c), that it wishes to be consulted further the Department shall send to that EEA State—

- (a) details of the proposed works;
- (b) a copy of the environmental statement in respect of the proposed works; and
- (c) relevant information regarding the procedures under the Regulations, but only to the extent that such information has not been provided to that EEA State earlier under paragraph (1)(a).

(3) The Department shall also—

- (a) arrange for the particulars and information referred to in paragraphs (1)(a) and (2) to be made available, within reasonable time, to the authorities referred to in Article 6(1) of the Directive and the public in the territory of the EEA State likely to be significantly affected; and
- (b) ensure that these authorities and the public concerned are given an opportunity, before a determination is made as to whether the proposed works should proceed, to forward to the Department, within reasonable time their opinion on the information supplied.

(4) The Department shall in accordance with Article 7(4) of the Directive—

- (a) consult with the EEA State concerned regarding, inter alia, the potential significant effects of the proposed works 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.

(5) Where an EEA State has been consulted in relation to any proposed works in accordance with paragraph (4) the Department shall inform the EEA State of the determination in respect of the proposed works and shall forward to it a statement of—

- (a) the determination and conditions attached thereto;
- (b) the main reasons and considerations on which the determination is based; and
- (c) a description, where necessary, of the main measures to avoid, reduce and if possible, offset the adverse effects of the proposed works.

Determination of whether proposed works should proceed

14.—(1) On expiry of the period specified in the notice published under regulation 11(1) the Department shall assess, in the light of the environmental statement, and any representations made in accordance with regulations 11 or 13, the direct and indirect effects of the proposed works on the environmental factors specified in Schedule 2C to the Drainage Order.

(2) Where—

- (a) no objection in relation to the likely environmental effects of the proposed works has been made; or
- (b) any such objection has been withdrawn, and

the Department, having undertaken the assessment required by paragraph (1) considers that the works should proceed, it may so determine (or may so determine subject to conditions).

(3) Where the Department has determined—

- (a) in accordance with paragraph (2), that it should proceed with the works or that it should proceed subject to conditions, or
- (b) that it should not so proceed,

it shall by notice in the Belfast Gazette and at least two local newspapers—

- (A) inform the public of the determination, and
- (B) give details of the places where and the times at which the public may inspect a statement of —
 - (i) its determination and any conditions to which it is subject;
 - (ii) the main reasons and considerations upon which its determination was based; and
 - (iii) where necessary, a description of the main measures to avoid, reduce and, if possible, offset the adverse effects of the proposed works.

(4) Where the Department, having undertaken the assessment specified in paragraph (1), considers that the proposed works should proceed but objections to those works made in relation to their likely environmental effects have not been withdrawn, it shall send the proposal for works together with the environmental statement and any representations on it to the Commission for determination in accordance with paragraphs (5) to (8).

(5) Where the Commission considers that the proposal, environmental statement and representations sent to it in accordance with paragraph (4) do not provide sufficient information to enable a determination to be made in relation to any proposed works in pursuance of this regulation, the Commission shall notify the Department in writing of the matters on which further information is required and may make a written request to the Department for such information as it may be able to provide on the matters raised.

(6) Where, in accordance with paragraph (5), the Commission requests further information from the Department in relation to any proposed works, the Department shall, no later than the time when it provides that information to the Commission—

- (a) by notice published in the Belfast Gazette and at least two local newspapers, at least 28 days before a determination as to whether the proposed works should proceed—
 - (i) announce that the further information is available in relation to the works and give details of the places where and times at which a copy may be inspected; and
 - (ii) state that any person who wishes to make representations on the likely environmental effects of the works to which the further information relates may make them in writing to the Commission at the address specified in the notice within 28 days of the date of the publication of the notice;
- (b) on or before the date of the publication of the notice supply a copy of the further information and notice to—
 - (i) the Drainage Council;
 - (ii) the district council of the district or, as the case may be, each district in which the proposed works are situate; and
 - (iii) any other persons who appears to it to have an interest in the matter, including, where appropriate, another EEA State,

so that they have an opportunity to make representations to the Commission on the likely environmental effects of the proposed works to which the further information relates before the expiry of the period specified in the notice.

- (7) The Commission shall—
 - (a) assess, in the light of the environmental statement, any further information provided in response to a request under paragraph (5) and any representations made in accordance with regulations 11, 13 or paragraph (6), the direct and indirect effects of the proposed works on the environmental factors specified in Schedule 2C to the Drainage Order;
 - (b) afford the Department and any persons who made representations the opportunity of appearing before and being heard by the Commission;

- (c) having regard to the assessment under sub-paragraph (a)—
 - (i) consent to the works unconditionally or subject to such conditions as the Commission considers appropriate, or
 - (ii) refuse to consent to the works; and
- (d) send to the Department and any person who made representations under regulations 11, 13 or paragraph (6) a statement in writing of—
 - (i) the Commission’s determination under sub-paragraph (c) and any conditions attached to it;
 - (ii) the main reasons and considerations upon which it was based; and
 - (iii) where necessary, a description of the main measures to avoid, reduce and, if possible, offset the adverse effects of the proposed works.
- (8) The Department shall by notice in the Belfast Gazette and at least two local newspapers—
 - (a) inform the public of the Commission’s determination under paragraph (7)(c); and
 - (b) give details of the places where and times at which the public may inspect a copy of the statement sent to it under paragraph (7)(d).