
EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement, in relation to projects for the use of uncultivated land and semi-natural areas in Northern Ireland for intensive agricultural purposes, Council Directive [85/337/EEC](#) (as amended by Council Directive [97/11/EEC](#)) on the assessment of the effects of certain public and private projects on the environment and Council Directive [1992/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora (“the Habitats Directive”) insofar as it applies to such projects.

The definition of “project” identifies those activities that are subject to the requirements of the Regulations. Regulation 4 prevents any projects from being undertaken unless a screening decision is first obtained. The screening decision determines whether the project is one that is likely to have significant effects on the environment (which will include a project likely to have a significant effect on a European site within the meaning of the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995 (“the Habitats Regulations”). A project which has been so determined is defined as a “relevant project” in the Regulations. The screening decision must be reached in accordance with the selection criteria set out in Schedule 1 of the Regulations. The procedural requirements in respect of screening decisions are set out in regulation 5.

Regulation 6 prohibits a relevant project from being carried out without consent first having been obtained from the Department.

Regulation 7 entitles the prospective applicant for consent to obtain an opinion from the Department as to the information which will be required as part of the environmental statement to accompany the application for consent.

Regulation 8 requires the statutory consultees to provide any relevant information in their possession to the applicant for consent.

Regulations 9 and 10 contain the procedural requirements for the application for consent. The application is required to include the environmental statement. This is defined as a statement which includes the information in Part II of Schedule 2 of the Regulations and such of the information in Part I of Schedule 2 as is reasonably required to assess the environmental effects of the project.

Regulation 11 contains provisions for notifying and consulting with other EEA States in relation to projects likely to have environmental effects on those States and for giving them the opportunity to make representations in respect of such projects.

Regulation 12 prescribes how the Department should decide whether to grant consent for a project. It requires the taking into account all of the information and representations provided in accordance with the Regulations.

Under regulation 12(3) the Department may not grant consent for a project which would involve activities prohibited under those provisions of the Habitats Regulations which implement Articles 12, 13, 15 and 16 (requirements for protection of species) of the Habitats Directive.

Paragraphs (4) to (9) of this regulation implement the requirements to be met before consent can be granted for a project which is likely to have a significant effect on a European site. Although the same information and representations need to be taken into account, insofar as they may be relevant, as with any other project, there are specific tests to be met. These specific tests implement Article 6(3) of the Habitats Directive. The provisions in these Regulations are consistent with those in the Habitats Regulations as applied to other consent regimes.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 12(11) specifies mandatory conditions to which the consents are required to be subject to ensure that consents are implemented and that further consent is required for works which are materially different from those permitted.

Regulation 12(12) contains procedural requirements to be complied with in granting or refusing consent.

Regulation 12(13) takes account of the provisions in the Wildlife (Northern Ireland) Order 1985 which apply where a competent authority intends to grant consent for any project which consists of an operation likely to damage an area of special scientific interest.

Regulation 13 and Schedule 3 implement Article 6(2) of the Habitats Directive by ensuring that any decisions taken in accordance with the Regulations before the designation of a European site which would permit a project to be carried out which would adversely affect the integrity of the site are reviewed and revoked or modified as necessary.

An applicant for a screening decision or for consent for a relevant project (or a person interested in a project subject to a revocation or modification under the review provisions contained in Schedule 3) may appeal against an adverse decision to the Department. An appellant is entitled to be heard by a person appointed by the Department for the purpose which hearing may be in public if the Department so decides. The general appeal provisions are contained in regulations 14-17. They include provision for determination by written representations or by hearing.

Persons aggrieved by decisions allowing projects to take place may apply to the High Court for a review of those decisions within six weeks of the decision being published (regulation 18).

Persons who carry on projects without first obtaining either a negative screening decision or consent for the project, or who act in breach of conditions imposed on a consent, commit an offence under the Regulations. It is also an offence under the Regulations to make false or misleading statements in order to obtain a particular decision (regulations 19-21).

If the Department wishes to ensure that unauthorised activities are stopped with immediate effect, it can serve a stop notice on the person carrying out the activities or on any person with an interest in the land upon which the activities are taking place (regulation 22). Non-compliance with the stop notice is an offence (regulation 23).

Regulation 24 contains a power for the Department to serve a notice requiring a person it believes to be responsible for committing an offence to reinstate the land to its former condition. An appeal against a reinstatement notice may be made to the Magistrates Court. Failure to comply with the requirements of a reinstatement notice is an offence.

Regulation 25 contains powers of entry in connection with carrying out the functions of the Department under the Regulations and includes the power to inspect and take copies of records. Powers are also provided to enter land for the purpose of carrying out works of reinstatement following non-compliance with a reinstatement notice.