

2006 No. 266

PLANNING

**The Planning (Issue of Certificate) Rules (Northern Ireland)
2006**

<i>Made</i> - - - -	<i>16th June 2006</i>
<i>Coming into operation</i>	<i>17th July 2006</i>
<i>Laid before Parliament</i> -	<i>21st June 2006</i>

The Secretary of State makes the following Rules in exercise of powers conferred by Article 123B(3) of the Planning (Northern Ireland) Order 1991(a).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Planning (Issue of Certificate) Rules (Northern Ireland) 2006 and shall come into operation on 17th July 2006.

(2) In these Rules—

“certificate” refers to a certification made by the Secretary of State under Article 123B(1) of the 1991 Order;

“electronic communication” has the meaning given by section 4 of the Electronic Communications Act (Northern Ireland) 2001(b);

“the Department” means the Department of the Environment;

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

(3) In these Rules and in relation to the use of electronic communications—

(a) the expression “address” includes any number or address used for the purposes of such communication; and

(b) references to notices, representations or other documents, or to copies of such documents, includes reference to such documents or copies of them in electronic form.

(4) A requirement in these Rules that any document be provided in writing is fulfilled in a case in which that document is transmitted electronically if it is—

(a) capable of being accessed by the recipient;

(b) legible in all material respects; and

(c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(a) S.I. 1991/1220 (N.I.11) as amended by S.I. 2003/430 (N.I.8) and S.I.2006/1252 (N.I.7). Article 123B was inserted by Article 22 of S.I. 2006/1252 (N.I.7)

(b) 2001 c.9 (N.I.)

2.—(1) Where an application of a description falling within Article 123B(1) of the 1991 Order has been made, a request may be made to the Secretary of State for him to certify that the application is one to which Article 123B of the 1991 Order applies.

(2) A request may be made by either—

- (a) the person who has made the application mentioned in paragraph (1); or
- (b) a person who objects to that application.

(3) A request must contain the information required by paragraph (4) or (5) as the case may be.

(4) In the case of a request by a person falling within paragraph (2)(a), the required information is—

- (a) a copy of the application referred to in paragraph (1);
- (b) a written explanation of—
 - (i) the grounds on which he considers the certificate should be issued; and
 - (ii) the information relating to the matters described in Article 123B(1)(a) of the 1991 Order, public disclosure of which would, in his view, be contrary to the public interest.

(5) In the case of a request by a person falling within paragraph (2)(b), the required information is a written explanation of—

- (a) the grounds on which he considers the certificate should be issued; and
- (b) the information relating to the matters described in Article 123B(1)(a) of the 1991 Order, public disclosure of which would, in his view, be contrary to the public interest.

3.—(1) Following receipt of a request that conforms with the requirements of rule 2, the Secretary of State shall—

- (a) acknowledge receipt of the request in writing; and
- (b) notify the Department that he has received the request and inform it of the date by which any representations in relation to the request must be provided to him.

(2) Following that notification the Department must—

- (a) in a case in which the request is made by a person falling within rule 2(2)(b)—
 - (i) notify the person who made the application that a request for a certificate has been made; and
 - (ii) inform him of the manner and time in which representations may be made in connection with that request;
- (b) in all cases provide the Secretary of State by the date referred to in paragraph (1)(b) with documentation relevant to the request (including a copy of the application, and any representations).

(3) The time for provision of representations may be extended upon written request to the Secretary of State.

4.—(1) The Secretary of State shall inform—

- (a) the Department;
- (b) the applicant; and
- (c) where the request has been made by someone other than the applicant, the person who made the request,
of his decision whether or not to issue a certificate under Article 123B(1) of the 1991 Order.

(2) The Secretary of State is not required to give reasons for that decision where the giving of reasons would result in the public disclosure of information relating to the matters described in Article 123B(1)(a) and would, in his view, be contrary to the national interest.

5. In a case in which—

- (a) the Secretary of State has issued a certificate under Article 123B(1) of the 1991 Order;
and
- (b) either
 - (i) no objections or representations in relation to the application referred to in that provision have been received by the Department ; or
 - (ii) any such objections or representations have been withdrawn,the Department may dispense with the inquiry referred to in Article 123B(2) of the 1991 Order.

6. Documents required or authorised to be sent under these Rules may be sent or supplied—

- (a) by post; or
- (b) by using electronic communications to send or supply the document (as the case may be) to a person at such an address as may be for the time being specified by the person for that purpose.

7.—(1) Where a person uses electronic communications to transmit any document for any purpose of these Rules which is capable of being carried out electronically he shall be taken to have agreed to the use of such communications and that his address for that purpose is the address incorporated into, or otherwise logically associated with the notice or document.

(2) Where a person is no longer willing to accept the use of electronic communications for any purpose under these rules which is capable of being effected electronically, the person shall give notice in writing—

- (a) withdrawing any address notified to the Secretary of State for that purpose; or
- (b) revoking any agreement entered in to with the Secretary of State for that purpose,

and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice but not less than 7 days after the date on which the notice is given.

Northern Ireland Office
16th June 2006

Peter Hain
One of Her Majesty's Principal Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules establish the procedure to be followed where an application is made to the Secretary of State for him to certify that an application for planning permission is one to which Article 123B (national security) of the Planning (Northern Ireland) Order 1991 (S.I. 1991/1220) applies.

Article 2 identifies those persons who may make an application as either the person who has applied for planning permission, or alternatively an objector, and specifies the information that must be provided in support of the application to the Secretary of State. Article 3 sets out the steps to be taken by the Secretary of State and the Department of the Environment once the application has been received. Article 4 lists those persons who must be informed of the Secretary of State's decision. Article 5 enables the Department of Environment to dispense with holding a public local inquiry where no objections or representations have been received in relation to a certificate issued by the Secretary of State, or where any made have been withdrawn. Articles 6 and 7 deal with the provision of documents under the Rules, and in particular, provision by electronic means.

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