

2006 No. 483

EUROPEAN COMMUNITIES

WATER AND SEWERAGE

**The Water Resources (Environmental Impact Assessment)
(Amendment) Regulations (Northern Ireland) 2006**

Made - - - - - *27th November 2006*

Coming into operation - - - - - *1st February 2007*

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 powers conferred upon it by that section makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Water Resources (Environmental Impact Assessment) (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 1st February 2007.

Interpretation

2.—(1) In these Regulations—

“the Abstraction Regulations” means the Water Abstraction and Impoundment (Licensing) Regulations (NI) 2006(c); and

“the Principal Regulations” means the Water Resources (Environmental Impact Assessment) Regulations (NI) 2005(d).

(2) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an Act of the Assembly.

(a) S.I. 1988/785
(b) 1972 c.68
(c) S.R. 2006 No. 482
(d) S.R. 2005 No. 32
(e) 1954 c.33 (N.I.)

Amendment of the Principal Regulations

- 3.—(1) The Principal Regulations shall be amended in accordance with paragraphs (2) to (9).
- (2) In regulation 2(2)—
- (a) omit the definition of “application”;
 - (b) omit the definition of “consent”;
 - (c) in the definition of “the Directive”, after “97/11/EC”, insert the words “and Council Directive 2003/35/EC on providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC”;
 - (d) insert the following definition at the appropriate place—
““licence” means a licence granted under regulation 10 of the Water Abstraction and Impoundment (Licensing) Regulations (NI) 2006;”.
- (3) In regulation 4—
- (a) in paragraph (1) for the words from the beginning to “that project” substitute the words “Any person (“the applicant”) who proposes to apply for, or for the modification of, a licence in relation to a project which may be a relevant project”; and
 - (b) in paragraph (11) for the word “consent” substitute the words “or for the modification of, a licence”.
- (4) For regulation 5 substitute the following regulation—
- “5. An environmental statement and any further information required by the Department under regulation 6(7) shall be provided in relation to an application for, or for the modification of, a licence for a relevant project.”.
- (5) In regulation 6, in paragraph (2), for the word “application,” substitute the words “application for, or for the modification of, a licence for a relevant project”.
- (6) For regulation 8 substitute the following regulation—

“Publicity for an application

- 8.—(1) Where an environmental statement or further information is provided in accordance with regulation 6, the applicant shall publish in the Belfast Gazette and such newspapers circulating in the relevant locality as the Department shall by notice in writing specify, a notice—
- (a) stating the applicant’s name and that he has made an application to which these Regulations apply and that he has provided the Department with an environmental statement or further information in accordance with regulation 6;
 - (b) naming a place in the relevant locality at which copies of the application, the environmental statement and any further information may be inspected free of charge at all reasonable hours within a period of twenty-eight days beginning on the date the notice was published;
 - (c) specifying an address at which copies of the application, the environmental statement and any further information may be obtained from the applicant and, if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying) of the charge; and
 - (d) stating that any person wishing to make representations in relation to the application should make them to the Department in writing within a period of twenty-eight days beginning on the date the notice was first published in the newspaper, at a specified address nominated by the Department.

(2) By not later than such date as may be specified by the Department, the applicant shall send a copy of the notice published under paragraph (1) and the application (including the environmental statement and the further information) to—

- (a) the consultation bodies; and
- (b) such persons as the Department may specify,

under cover of a letter stating that any representations in relation to the application should be made in writing to the Department within a period of twenty-eight days beginning with the date of the letter.

(3) The applicant shall send to the Department a copy of any notice published under paragraph (1) and the Department shall publish that notice on its website.

(4) This paragraph applies to the following information namely—

- (a) any information which is provided to the Department in response to its consultation under regulation 6(2); and
- (b) any information which is relevant to the determination under regulation 9 and which becomes available to the Department, whether as a result of a request by the Department or otherwise, after the date on which the notice was published under paragraph (1).

(5) Where the Department receives any information to which paragraph (4) applies it shall, on its website—

- (a) state a place where, during a period of twenty-eight days beginning on the day fourteen days after which the information becomes available to the Department, a copy of the information may be inspected, and that the inspection is free of charge; and
- (b) specify an address from which a copy of the information may be obtained from the Department and, if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying) of the charge.

(6) The Department shall not determine an application made by a person where that person has not complied with a requirement of paragraph (1), (2) or (3)."

(7) In regulation 9—

- (a) omit paragraph (1);
- (b) in paragraph (2) for the words "the application" substitute the words "an application for, or for the modification of, a licence for a relevant project"; and
- (c) in paragraph (3)—
 - (i) after the word "publish" insert the words "on its website and";
 - (ii) in sub-paragraph (a) for the words "consent or variation" substitute the words "licence or modification"; and
 - (iii) in sub-paragraph (b), at the end omit the word "and" and after sub-paragraph (c) add the following sub-paragraphs—
 - "(d) information about the public participation process; and
 - (e) information regarding any right to challenge the validity of the decision and the procedures for doing so."

(8) In regulation 14(4)(b) for the words "consent for the relevant project" substitute the words "the licence or modification thereof".

(9) Omit regulations 7, 10 to 13, and 16 to 19.

Transitional Provisions

4.—(1) Where before the coming into operation of these Regulations the Department had received but not determined an application for a consent under the Principal Regulations, that application shall be treated as an application for a licence under regulation 8 of the Abstraction

Regulations and the provisions of those Regulations shall, subject to paragraph (2), apply to any application so treated.

(2) Regulation 19(1) of the Abstraction Regulations shall apply to an application to which paragraph (1) refers as if for the period of 4 months there mentioned there was substituted the period of 4 months from the date on which an application for a consent was received under the Principal Regulations .

(3) Any consent granted under the Principal Regulations before the coming into operation of these Regulations shall be treated as a licence under the Abstraction Regulations and the provisions of the Abstraction Regulations shall apply to any licence so treated as they apply to licences granted under those Regulations.

(4) Any matter registered in accordance with paragraph (a) or (b) of regulation 19 of the Principal Regulations before the coming into operation of the Abstraction Regulations shall be registered in the register maintained under Article 30 of the Water (NI) Order 1999(a).

Sealed with the Official Seal of the Department of the Environment on 27th November 2006.



Wesley Shannon
A senior officer of the Department of the Environment

(a) S.I. 1999/662 (N.I.6) as amended by S.I. 2006/1946 (N.I. 15)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005 (“the Principal Regulations”) both as a consequence of the coming into operation of the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (“the Abstraction Regulations”) and also to implement, in part, Article 2 of Directive 2003/35/EC of the European Parliament and of the Council on public participation in respect of drawing up certain plans or programmes relating to the environment (O.J. No. L156, 25.6.2003, p.17). That Article amends Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (O.J. No. L73, 14.3.97, p.5),.

The amendments made as a consequence of the coming into operation of the Abstraction Regulations are largely technical in nature. Their effect is to abolish a separate consenting regime under the Principal Regulations so that with effect from 1st February 2007 relevant projects (water management projects for agriculture involving the abstraction of 200 cubic metres or more of water in any period of 24 hours) will require to be licensed under the Abstraction Regulations. Any consents issued under the Principal Regulations prior to the coming into operation of these Regulations will, after that date, be treated as licences under the Abstraction Regulations.