

## **EXPLANATORY MEMORANDUM TO**

### **The Planning (2011 Act) (Commencement No.1) Order (Northern Ireland) 2011**

#### **S.R. 2011 No. 386 (C. 28)**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment (“the Department”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 254(1) of The Planning Act (Northern Ireland) 2011 (“the 2011 Act”) and is not subject to any form of Assembly control.

#### **2. Purpose**

- 2.1. This Order commences certain provisions in the 2011 Act which mainly relate to planning enforcement. The Order commences sections 247 (Regulations and orders) and 248 (Amendment of certain time periods in relation to enforcement) of the 2011 Act. Section 247 details the Assembly controls which will apply to regulations and orders under the 2011 Act and section 248 provides for a new 5 year time period for taking enforcement action (instead of 4 and 10 years).
- 2.2. These legislative amendments are necessary to standardise and simplify the range of options available to effectively address breaches of planning control.

#### **3. Background**

- 3.1. The 2011 Act provides the legislative basis for the reform of the Northern Ireland planning system including the transfer of the majority of planning functions and decision making responsibilities to district councils.
- 3.2. The 2011 Act will be supported with a significant and comprehensive programme of subordinate legislation and guidance which will be subject to further detailed consultation exercises.
- 3.3. The bulk of the reforms within the 2011 Act cannot be commenced at this point as they apply whenever powers transfer to district councils. Section 248 of the 2011 Act, however, provides for the early introduction of a standard 5 year time period for taking enforcement action against breaches of planning control by amending the current 4 and 10 year time-periods contained in the Planning (Northern Ireland) Order 1991.

#### **4. Matters of Special Interest to the Environment Committee**

- 4.1. At the Environment Committee meeting of 9 June 2011 the Committee stated it welcomed the new 5 year time period and would like to see the provisions come into force as soon as possible.

## **5. Consultation**

- 5.1. Wide and extensive consultation was carried out on the Department's proposals to reform the planning system. The new time period for enforcement was recommended by the Environment Committee during its scrutiny of the Planning Bill and was debated by the Assembly. The Department does not consider further consultation on the implementing subordinate legislation is necessary – the purpose of this Statutory Rule is to bring into force provisions contained in the Planning Act (Northern Ireland) 2011. The Planning (2011 Act) (Commencement No.1) Order (Northern Ireland) 2011 commences, in particular, section 248 which provides for a new 5 year time period for taking enforcement action (instead of 4 or 10 years). An accompanying Planning (2011 Act) (Transitional Provisions) Order (Northern Ireland) 2011 includes transitional arrangements which provide clarity on how the legislation will operate i.e. how enforcement cases will be handled by the Department where enforcement action has been initiated under the Planning (Northern Ireland) Order 1991 at the time the new period is introduced.

## **6. Equality Impact**

- 6.1. As the sole purpose of this particular Order is simply to commence sections 247 and 248 of the 2011 Act no screening is considered necessary.

## **7. Regulatory Impact**

- 7.1. Any Regulatory Impact derives from the 2011 Act itself, not from its commencement. A Regulatory Impact Assessment was carried out during development of the 2011 Act.

## **8. Financial Implications**

- 8.1. Overall it is difficult to estimate the exact costs and savings for the enforcement work resulting from the new proposals. We do not expect that the proposals will have any significant financial impact for businesses. While the time periods will be changed and consequential transitional arrangements introduced it remains the fact that enforcement action will only be taken if there has been a breach of planning control. There are no start-up costs for the Department as the enforcement regime is well established.

## **9. EU Implications**

- 9.1. Not applicable.

## **10. Section 24 of the Northern Ireland Act 1998**

- 10.1. The Department considers that the Order is compliant with section 24 of the Northern Ireland Act 1998.