

EXPLANATORY MEMORANDUM TO
THE PLANNING (SIMPLIFIED PLANNING ZONES) REGULATIONS (NORTHERN
IRELAND) 2015

2015 No. 188

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of the Environment to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 This Statutory Rule is made under sections 34(4), 247(1) and (6) of, and paragraphs 2(2), 3(a), (b) and (c) and 8 of Schedule 1 to, the Planning Act (Northern Ireland) 2011 (“the 2011 Act”) and is subject to the negative resolution procedure.
- 1.3 The Rule comes into operation on 22nd April 2015.

2. Purpose

- 2.1 The purpose of the proposed Planning (Simplified Planning Zones) Regulations (Northern Ireland) 2015 (“the 2015 regulations”) is to provide for the transfer of planning functions to councils as part of a new two-tier planning system. The Department is taking forward a programme of subordinate legislation reforming the planning system and transferring responsibilities to local government. As part of this programme the existing powers in relation to designating a Simplified Planning Zone (SPZ) scheme will transfer from the Department to the new district councils. The Department will retain an oversight role and intervention role as necessary.

3. Background

- 3.1 An SPZ scheme has the effect to grant planning permission within an identified geographic zone for particular development, or any class of development, specified in the scheme. The existing subordinate legislation which deals with SPZs is the Planning (Simplified Planning Zones) Regulations (Northern Ireland) 1990 (“the 1990 regulations”). The 1990 regulations set out the detailed provisions for a range of procedural issues including the process for publicising SPZs; periods for making representations; the consideration of objections; and public inquiry. While made under the Planning (Northern Ireland) Order 1972 the 1990 regulations are treated as if they were made under the 1991 Order by virtue of section 29(3)(a) of the Interpretation Act (Northern Ireland) 1954 and are extant, that is they currently remain operative.
- 3.2 The 2009 proposals on planning reform identified SPZs as a future tool for councils in support of their local economic development responsibilities. The 2011 Act therefore provides powers at Part 3 and Schedule 1 for the new

councils to take forward SPZs. The Department will retain a role in relation to approval, oversight and, if necessary, intervention in the process. Given the move to the new two-tier planning system this new subordinate legislation is required to provide detail on the process for councils making, altering and adopting SPZs.

4. Consultation

- 4.1 The Department consulted on the 2015 regulations as part of its “Planning Reform & Transfer to Local Government Proposals for Subordinate Legislation Phase 2” between 31st October 2014 and 31st December 2014.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals and has concluded that they do not have implications for equality of opportunity.

6. Regulatory Impact

- 6.1 A Regulatory Impact Assessment was carried out in respect of the 2015 regulations and is attached at the Annex.

7. Financial Implications

- 7.1 There may be increased costs to the Department/Council/Planning Appeals Commission associated with training staff and the operation of these Regulations. At this stage it is not possible to be precise regarding cost implications in detail as there is no indication as to when, or how often these provisions will be required.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department considers that the legislation complies with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 This is not a parity or replicatory measure.

11. Additional Information

- 11.1 Not applicable

12. Contact

12.1 Please direct any queries to Brian Gorman at the Department of the Environment Tel:028 90823536 or email Brian.Gorman@doeni.gov.uk

REGULATORY IMPACT ASSESSMENT (FINAL)**1. Title of Proposal**

The Planning (Simplified Planning Zones) Regulations (Northern Ireland) 2015.

2. Purpose and intended effect of measure**i) The objective:**

The main objective of the proposed Planning (Simplified Planning Zones) Regulations (Northern Ireland) 2015 (“the 2015 regulations”) is to provide for the transfer of planning functions to councils. Under the review of public administration responsibility for the majority of planning functions currently carried out by the Department will transfer to councils. As part of this review the Planning (Simplified Planning Zones) Regulations (Northern Ireland) 1990 (“the 1990 regulations”), have been identified as appropriate to revoke and re-enact in line with to the new responsibilities of the councils. The changes will allow them to operate and function properly in relation to the making and alteration of a simplified planning zone (SPZ) scheme.

ii) The background:

While made under the Planning (Northern Ireland) Order 1972, the 1990 Regulations remain extant and are treated as made under the Planning (Northern Ireland) Order 1991 (“1991 Order”), by virtue of section 29(3)(a) of the Interpretation Act (Northern Ireland) 1954.

Articles 14 to 18 of the 1991 Order set out the powers of the Department to make and alter an SPZ scheme. They also set out the exclusion of certain descriptions of land from SPZs. The powers also rely on the development plan provisions in articles 5, 6, 7 and 8 of the 1991 Order.

The 1990 regulations provide further detail on a range of procedural issues including: the process for advertisement; periods for making representations; the consideration of objections and public inquiry. An SPZ has the effect to grant planning permission within an identified geographic zone for particular development, or any class of development, specified in the scheme.

The Department’s 2009 planning reform proposals identified SPZs as a future tool for local councils in delivering against their economic development responsibilities. The Planning Act (Northern Ireland) 2011 (“the 2011 Act”) therefore provides powers at sections 33 to 38 and Schedule 1 for the new councils to take forward SPZs. The 2011 Act also provides for an oversight role for the Department and where necessary a power of intervention. Given the move to the new two-tier planning system the new subordinate legislation contained in the 2015 regulations will be required to provide detail on the process for councils making and altering SPZs. As

part of this programme the 1990 regulations will be revoked and re-enacted as the 2015 regulations, to include appropriate technical revisions accounting for the move to the new two-tier planning system.

iii) Risk assessment:

Currently, legislation allows for the Department to make and alter an SPZ scheme, however, as part of the two-tier planning system, the proposed legislation has been developed to allow councils, rather than the Department, to carry out this planning function. No additional risks are envisaged with transitional arrangements allowing councils to perform these planning functions.

3. Options Appraisal

Option 1: Do nothing

This is not a realistic or desirable option as under the review of public administration responsibility for the majority of planning functions currently carried out by the Department will transfer to councils on the 1st April 2015.

Option 2: Introduce regulations governing the making and alteration of SPZs by councils.

This is the preferred option given it will provide the necessary legislative provisions to support the new and revised responsibilities between central and local government under the new two-tier planning system.

4. Costs and Benefits

Option 1: Do Nothing

Costs:

This option would not incur any additional costs, however, this option is not considered viable as it does not meet the requirements of the 2011 Act to transfer planning powers to councils including SPZ powers.

Benefits:

No economic, social or environmental benefits are derived from this option.

Option 2: Introduce regulations governing the making and alteration of SPZs by councils

Costs:

Costs associated with staff time in the development and management of subordinate legislation through the required Assembly process are borne by the Department. It would be for a council to assess the potential longer-term advantages of an SPZ against the forecasted loss in fees from planning applications within an SPZ area.

Benefits:

The potential benefits of introducing SPZ legislation can include: greater certainty of outcome for a developer whose development meets the criteria set out in the SPZ

scheme; the removal of the financial and administrative burden of submitting an application and lightening the burden on the development management system by reducing the number of applications coming into the system.

5. Business sectors affected

The effects of the proposed regulations will be equal for all businesses whose development proposals would meet the requirements of a council SPZ scheme. Impact is positive as the SPZ scheme would remove the financial and administrative burden of submitting an application.

6. Enforcement and Sanctions

The enforcement of planning control in SPZs, and in which SPZs have expired, is the same as elsewhere under the powers given by councils. Guidance on the use of these powers is contained in appropriate circulars.

7. Consideration of impacts

Equality Impact Assessment

The Department's initial screening for equality impacts considers that the proposals will not discriminate unlawfully, unfairly or unjustifiably against any sections of the community specified in Section 75 of the Northern Ireland Act 1998. The views of the public were invited on the screening analysis through the public consultation paper.

Health Impact

No impact on health has been identified.

Small Business Impact Test

The Department does not expect the proposals to impact adversely upon small businesses. Small businesses and their representatives have been consulted as part of the wider public consultation.

Human Rights Assessment

The Department considers that the proposed amendments are fully compliant with the Human Rights Act 1998.

Rural Impact Assessment

There will be no significant differential impact of the proposals between urban and rural areas because of the specific scope of the changes.

8. Monitoring and review

Under the provisions of section 228 of the 2011 Act the Department must carry out a review and report back to the Assembly on the implementation of the Act three years after planning functions transfer to councils and every five years thereafter.

9. Consultation

i. Within Government

Consultation at official level has continued throughout the drafting of the policy paper, partial regulatory impact assessment and the regulations. This included discussions with officials involved in operational and strategic planning.

ii. Public Consultation

The 2015 regulations were part of the public consultation on a broader range of subordinate legislation. The consultation was carried out from 31st October 2014 to 31st December 2014.

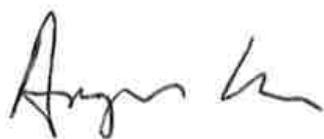
10. Summary and Recommendation

The 2015 regulations have been developed to amend the existing arrangements contained in the 1990 regulations, for making and altering an SPZ scheme, into appropriate regulations to address the requirements of the new two-tier planning system. It is recommended that the 2015 regulations be brought into operation as an element of the transfer of planning functions to the new councils and the establishment of a new two-tier planning system in Northern Ireland.

11. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment.



.....
Date: 26th March 2015
Angus Kerr

Planning Policy Division
Department of the Environment
Causeway Exchange
1-7 Bedford Street
Belfast
BT2 7EG