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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 74**

**The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015**

**PART 4**

**Procedures on Receipt of Application**

**Applications made to the council which appear to require determination as to need for environmental impact assessment**

**10.**—(1) Where it appears to the council that an application for planning permission—

- (a) is a Schedule 1 application or a Schedule 2 application; and
- (b) the development in question has not been the subject of a determination as to whether the application is or is not an EIA application; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the council shall make a determination as to whether the application is for EIA development, taking into account the selection criteria.

(2) If the council considers that it has not been provided with sufficient information to make a determination under paragraph (1) it shall notify the applicant of the particular points on which it requires further information.

(3) Subject to paragraph (4), the council shall make a determination under paragraph (1) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant.

(4) Where additional information is requested under paragraph (2), the council shall notify the applicant of its determination within a period of 4 weeks from the date of receipt of the additional information.

**Applications made to the Department which appear to require determination as to need for environmental impact assessment**

**11.**—(1) Where it appears to the Department that an application for planning permission made to it—

- (a) is a Schedule 1 application or a Schedule 2 application; and
- (b) the development in question has not been the subject of a determination as to whether the application is or is not an EIA application; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the Department shall make a determination as to whether the application is for EIA development, taking into account the selection criteria.

(2) If the Department considers that it has not been provided with sufficient information to make a determination under paragraph (1) it shall notify the applicant of the particular points on which it requires further information.

(3) Subject to paragraph (4), the Department shall make a determination under paragraph (1) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant and shall send a copy of its determination to the council.

(4) Where additional information is requested under paragraph (2), the Department shall notify the applicant of its determination within a period of 4 weeks from the date of receipt of the additional information.

**Subsequent applications made to the council where environmental information previously provided**

12.—(1) This regulation applies where it appears to the council that—

- (a) an application which is before it for determination—
  - (i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;
  - (ii) has not itself been the subject of a determination as to whether the application is or is not an EIA application; and
  - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and
- (b) the original application was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations.

(2) Where it appears to the council that the environmental information already before it is adequate to assess the environmental effects of the development, it shall take that information into consideration in its decision for subsequent consent.

(3) Where it appears to the council that the environmental information already before it is not adequate to assess the environmental effects of the development, it shall serve a notice seeking further information in accordance with regulation 23(1).

**Subsequent applications made to the Department where environmental information previously provided**

13.—(1) This regulation applies where it appears to the Department that—

- (a) an application which is before it for determination—
  - (i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;
  - (ii) has not itself been the subject of a determination as to whether the application is or is not an EIA application; and
  - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and
- (b) the original application was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations.

(2) Where it appears to the Department that the environmental information already before it is adequate to assess the environmental effects of the development, it shall take that information into consideration in its decision for subsequent consent.

(3) Where it appears to the Department that the environmental information already before it is not adequate to assess the environmental effects of the development, it shall serve a notice seeking further information in accordance with regulation 23(1).

**Subsequent applications made to the council where environmental information not previously provided**

14.—(1) Where it appears to the council that—

- (a) an application—
  - (i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;
  - (ii) has not itself been the subject of a determination as to whether the application is or is not an EIA application; and
  - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and
- (b) the original application was not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

it shall make a determination as to whether the application is for EIA development, taking into account the selection criteria.

(2) If the council considers that it has not been provided with sufficient information to make a determination under paragraph (1) it shall notify the applicant of the particular points on which it requires further information.

(3) Subject to paragraph (4), the council shall make a determination under paragraph (1) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant.

(4) Where additional information is requested under paragraph (2), the council shall notify the applicant of its determination within a period of 4 weeks from the date of receipt of the additional information.

**Subsequent applications made to the Department where environmental information not previously provided**

15.—(1) Where it appears to the Department that—

- (a) an application—
  - (i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;
  - (ii) has not itself been the subject of a determination as to whether the application is or is not an EIA application; and
  - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and
- (b) the original application was not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

it shall make a determination as to whether the application is for EIA development, taking into account the selection criteria.

(2) If the Department considers that it has not been provided with sufficient information to make a determination under paragraph (1) it shall notify the applicant of the particular points on which it requires further information.

(3) Subject to paragraph (4), the Department shall make a determination under paragraph (1) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant and shall send a copy of its determination to the council.

(4) Where additional information is requested under paragraph (2), the Department shall notify the applicant of its determination within a period of 4 weeks from the date of receipt of the additional information.

**Application made to the council without an environmental statement**

16.—(1) Where an EIA application, including an application determined as such under regulation 10 or 14, is not accompanied by an environmental statement or a statement referred to by the applicant as an environmental statement, the council shall notify the applicant in writing that the submission of such a statement is required, giving clearly and precisely the full reasons for its view.

(2) The council shall notify the applicant in accordance with paragraph (1) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant.

(3) An applicant receiving a notification pursuant to paragraph (1) shall, within 4 weeks from the date of the determination, inform the council, in writing, that the applicant—

- (a) accepts the council’s determination and proposes to provide an environmental statement; or
- (b) does not accept the council’s determination and proposes to seek a hearing before the Commission.

(4) If the applicant does not inform the council in writing in accordance with paragraph (3), the permission or subsequent consent sought shall be deemed to be refused at the end of the relevant 4 week period; and the deemed refusal shall not give rise to an appeal to the Commission by virtue of section 58 (appeals) or section 60 (appeal against failure to take planning decision).

(5) Where, following receipt of a notification pursuant to paragraph (1), an applicant proposes to seek a hearing before the Commission, the applicant shall by notice in writing inform the Commission to such effect within 4 weeks from the date of the notification.

(6) Where the council determines, or following a hearing by the Commission confirms, that an environmental statement is required, the statement shall be submitted within 6 months from the date of determination or such extended period as may be agreed in writing between the applicant and the council, and if not so submitted, the application for planning permission or subsequent application shall be deemed to be refused and the deemed refusal shall not give rise to an appeal to the Commission by virtue of section 58 (appeals) or section 60 (appeal against failure to take planning decision).

(7) Where, following a hearing by the Commission, the council withdraws its determination that an environmental statement is required, the period within which the application for planning permission or subsequent application is to be determined shall be calculated from the date of notice to the applicant of the council’s withdrawal.

(8) Where the council makes a determination under regulation 10(1) or 14(1) that an environmental statement is required or confirms a determination under paragraph (6), regulations 8(3) and 9 shall apply.

**Application made to the Department without an environmental statement**

17.—(1) Where an EIA application, including an application determined as such under regulation 11 or 15, is not accompanied by an environmental statement or a statement referred to by the applicant as an environmental statement, the Department shall notify the applicant in writing that the submission of such a statement is required, giving clearly and precisely the full reasons for its view and shall send a copy of its notification to the council.

(2) The Department shall notify the applicant in accordance with paragraph (1) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant.

(3) An applicant receiving a notification pursuant to paragraph (1) shall, within 4 weeks from the date of the determination, inform the Department, in writing, that the applicant—

- (a) accepts the Department's determination and proposes to provide an environmental statement; or
- (b) does not accept the Department's determination and proposes to seek a hearing before the Commission.

(4) If the applicant does not inform the Department in writing in accordance with paragraph (3), the permission or subsequent consent sought shall be deemed to be refused at the end of the relevant 4 week period.

(5) Where, following receipt of a notification pursuant to paragraph (1), an applicant proposes to seek a hearing before the Commission, the applicant shall by notice in writing inform the Commission to such effect within 4 weeks from the date of the notification.

(6) Where the Department determines, or following a hearing by the Commission confirms, that an environmental statement is required, the statement shall be submitted within 6 months from the date of determination or such extended period as may be agreed in writing between the applicant and the Department, and if not so submitted, the application for planning permission or subsequent application shall be deemed to be refused.

(7) Where, following a hearing by the Commission, the Department withdraws its determination that an environmental statement is required, the period within which the application for planning permission or subsequent application is to be determined shall be calculated from the date of notice to the applicant of the Department's withdrawal.

(8) Where the Department makes a determination under regulation 11(1) or 15(1) that an environmental statement is required or confirms a determination under paragraph (6), regulations 8(4) and 9 shall apply.

### **Application referred to the Department without an environmental statement**

**18.—(1)** Where an application has been referred to the Department under section 29 for determination, and it appears to the Department that—

- (a) it is an EIA application; and
- (b) the development in question—
  - (i) has not been the subject of a determination as to whether the application is or is not an EIA application; or
  - (ii) in the case of a subsequent application, was the subject of a determination before planning permission was granted to the effect that it is not EIA development; and
- (c) the application in question is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (5) and (6) of regulation 7 shall apply as if the referral of the application were a request made by the applicant pursuant to regulation 7(1)(a).

(2) Where an application has been referred to the Department for determination, and it appears to the Department that—

- (a) it is an EIA application, and
- (b) it is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the Department shall notify the applicant in writing that the submission of an environmental statement is required and shall send a copy of that notification to the council.

(3) The Department shall notify the applicant in accordance with paragraph (2) within 4 weeks from the date of receipt of the application or such longer period as may be reasonably required.

(4) Paragraphs (3) to (8) of regulation 17 shall apply to an application mentioned in this regulation as they apply to an application mentioned in that regulation as if the reference in regulation 17(3) and (5) to paragraph (1) were a reference to paragraph (2) of this regulation.

**Extension of the period for council’s or Department’s decision on an application for planning permission or subsequent application**

19. Where an application for planning permission or subsequent application is an EIA application, Articles 12 and 20 of the General Development Procedure Order shall have effect as if—

- (a) in Article 12 for the reference to a period of 8 weeks from the date the application was received; and
- (b) in paragraph (2)(b) of Article 20 for the reference to a period of 8 weeks from the date the application was received

there were substituted a reference to a period of 16 weeks; and

- (c) after paragraph (3)(b) of Article 20 there were inserted—
  - “(ba) the environmental statement required to be submitted in respect of the application has been submitted, together with the documents required to accompany that statement; and
  - (bb) in the case of an application falling within regulation 10(1), 11(1), 14(1) or 15(1) where the council or, as the case may be, the Department has requested further information in order to make a determination under regulation 10(2), 11(2), 14(2) or 15(2), when that information was received; and
  - (bc) where evidence verifying information in the environmental statement has been requested, when that evidence was received; and”;
- (d) the date when an application is received for the purposes of Article 12 were the date when each of the events referred to in Article 20(3) (ba) to (bc) has occurred in relation to that application.