

SCHEDULE 5

Saving and transitional provisions

PART 2

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 as modified

Determination as to need for environmental statement, etc.

22.—(1) Where it appears to the council or, as the case may be, the Department that the matters constituting the breach of planning control comprise Schedule 1 or Schedule 2 development, the council or, as the case may be, the Department shall, before the enforcement notice is issued, make a determination, taking into account the selection criteria, as to whether the development is or is not EIA development.

(2) Where it appears to the council or, as the case may be, the Department that the matters constituting the breach of planning control comprise or include EIA development it shall serve with a copy of the enforcement notice a notice (“regulation 22 notice”) which shall—

- (a) include a copy of the determination required by paragraph (1) and a written statement giving clearly and precisely full reasons for its conclusions; and
- (b) require a person who gives notice of an appeal under Article 69 (appeal against enforcement notice) to submit to the Commission with the notice sufficient copies of the environmental statement relating to the unauthorised development to enable the Commission to comply with regulation 25.

(3) The council or, as the case may be, the Department shall send a copy of the regulation 22 notice to—

- (a) the Commission;
- (b) such district councils as are in the area in which the land to which the unauthorised development relates is situated;
- (c) any other authorities likely to be concerned by the unauthorised development by reason of their specific environmental responsibilities; and
- (d) any particular person of whom it is aware, who is likely to be affected by, or has an interest in, the regulation 22 notice.

(4) Where the council or, as the case may be, the Department serves the Commission with a copy of a regulation 22 notice it shall also provide it with a list of the other persons to whom, in accordance with paragraph (3), a copy of the notice has been or is to be sent.

(5) Where a person gives notice of appeal under Article 69 and the council or, as the case may be, the Department has served on that person a regulation 22 notice with which he does not agree, that person may by notice in writing, within 4 weeks of the service of the enforcement notice, inform the council or, as the case may be, the Department that he proposes to seek a hearing before the Commission.

(6) Where, in relation to paragraph (5), a person proposes to seek a hearing before the Commission, that person shall by notice in writing, inform the Commission to such effect within 4 weeks of the service of the enforcement notice.