

## SCHEDULE 5

### Saving and transitional provisions

## PART 2

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

#### **Confirmation that development is EIA development**

5.—(1) Subject to any direction of the Department under regulation 3, the occurrence of an event mentioned in paragraph (2) shall determine, for the purposes of these regulations, that development is EIA development.

(2) The events referred to in paragraph (1) are—

- (a) the submission by the applicant or appellant, in relation to that development, of a statement referred to by the applicant or appellant as an environmental statement for the purposes of these regulations; or
- (b) the determination by the council or by the Department, or following a hearing by the Commission, confirmation by the council or by the Department, that the development is EIA development.

#### **“Appeals under Article 32 or Article 33**

5A.—(1) Where an appeal is made to the Commission under Article 32 or 33 of the 1991 Order, the functions conferred on the council or on the Department by Part III to Part VI of these Regulations shall be exercisable by the Commission in respect of that appeal.

(2) For the purposes of paragraph (1), regulation 9 (6) shall be amended as follows—

“(6) An appellant receiving a notification pursuant to paragraph (3) shall, within 4 weeks from the date of the determination, inform the Commission, in writing, that he—

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

(3) For the purposes of paragraph (1), regulation 9 (7A) does not apply.

(4) For the purposes of paragraph (1), the phrase “and the deemed refusal shall not give rise to an appeal to the Commission by virtue of Article 32 (appeals) or Article 33 (appeal in default of planning decision)” contained in regulation 9(7), 9(8) and 15(2A) shall not have effect.”