

EXPLANATORY MEMORANDUM TO
THE PLANNING (GENERAL DEVELOPMENT PROCEDURE) (AMENDMENT)
ORDER (NORTHERN IRELAND) 2016

2016 No. 115

1.0 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 32 and 56(1) of the Planning Act (Northern Ireland) 2011 (the 2011 Act).
- 1.3 The Rule is due to come into operation on 9th May 2016.

2.0 Purpose

- 2.1 The 2016 amendment Order amends the Planning (General Development Procedure) Order (Northern Ireland) 2015 (“the 2015 Order”). It is intended to provide clarity for users of the planning system in terms of the statutory consultation requirements in determining applications for planning permission in the wake of the re-structuring of central government departments and the transfer of a number of planning functions across some of the new 9 departments.

3.0 Background

- 3.1 The 2015 Order provides for a range of procedural issues which enable councils to discharge their planning functions. It also enables the Department of the Environment to operate as a planning authority for those applications that are either called in or classed as regionally significant under the current planning hierarchy. One of these functions is a requirement for planning authorities to consult certain bodies before the determination of planning applications. These statutory consultees provide the necessary specialist advice on aspects that are outside the planning authorities’ normal area of expertise. Many of these statutory consultees are government departments and the proposed reduction in departments will mean a change in their names and a realignment of their responsibilities. The 2015 order must therefore be amended to take these changes into account.
- 3.2 The 2016 order amends Schedule 3 of the 2015 Order, “consultation arrangements”, setting out the consultation duties required by Article 13 “consultations as to applications for planning permission”. The necessary changes to the consultation requirements are as follows:
 - Consultation requests relating to planning applications impacting upon listed buildings etc. which were formerly addressed to DOE as the parent body of

NIEA, (paragraph 1, 2015 Order) will instead be sent to the Department for Communities following the transfer of built heritage functions (paragraph 1, 2016 Order).

- Consultation requests relating to NIEA's natural heritage functions (paragraph 1, 2015 Order) will now be sent to the Department of Agriculture, Environment and Rural Affairs (paragraph 2, 2016 Order).
- Consultation requests for developments affecting roads (formerly sent to DRD – paragraph 3, 2015 Order) or requiring the input of the Rivers Agency (formerly sent to DARD – paragraph 6, 2015 Order) will now be sent to the Department for Infrastructure (paragraph 4, 2016 Order).
- Consultation requests for developments impacting upon the water or sewerage infrastructure which would have been addressed to DRD (paragraph 4, 2015 Order), will henceforth be sent to the Department for infrastructure (paragraph 5, 2016 Order).
- Finally, consultation requests for developments relating to major energy applications, mineral applications and hydrocarbon exploration/extraction, formerly sent to DETI (paragraph 7, 2015 Order), will now be addressed to the Department for the Economy (paragraph 7, 2016 Order).

3.3 Part 2 of Schedule 3 applies to consultation requests when the Department is acting as a planning authority. Central government planning duties are to be transferred from DOE to the new Department of Infrastructure and this has implications for the consultation process. The changes are as follows-

- NIEA's natural and built heritage functions are transferred to the Department for Communities and the Department for Infrastructure respectively. Previously NIEA's position within DOE prevented it from being a statutory consultee with respect to Department's planning duties as the Department could not consult itself. However, the separation brought about by the new departmental structures means the former NIEA will now become a statutory consultee for planning applications dealt with by the new Department for Infrastructure (paragraphs 2 and 3, 2016 Order);
- Likewise the combination of functions from once separate departments into the Department for Infrastructure will mean that some bodies will no longer be statutory consultees to the Department. These are applications to DRD for applications affecting roads (paragraph 3, 2015 Order) and consultation requests made to the River's Agency via DARD (paragraph 6, 2015 Order). These requirements are removed by the 2016 Order. The reference to DRD in relation to water and sewerage infrastructure in paragraph 4 of the 2015 Order is also removed. These bodies cease to be statutory consultees to the Department and the duty to respond no longer applies. Henceforth these consultation requests will be dealt with on an administrative basis.
- Finally, consultation requests relating to major energy infrastructure, mineral applications and hydrocarbon exploration/extraction originally sent to DETI (paragraph 7, 2015 Order) will now be addressed to the Department for the Economy (paragraph 7, 2016 Order).

4.0 Consultation

4.1 As this Order simply makes technical amendments arising from a change in function of departments in Northern Ireland, consultation has not been deemed necessary.

5.0 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 any implications for equality of opportunity.

6.0 Regulatory Impact

6.1 As this Orders simply makes technical amendments arising from a change in function of Departments in Northern Ireland a Regulatory Impact Assessment has not been prepared..

7.0 Financial Implications

7.1 No financial impacts are anticipated.

8.0 Section 24 of the Northern Ireland Act 1998

8.1 This Order does not discriminate on grounds of religious belief or political opinion nor does it modify the European Communities Act 1972, the Human Rights Act 1988 or any statutory provisions listed in section 7 of the 1998 Act.

9.0 EU Implications

9.1 There are no EU l implications.

10.0 Parity or Replicatory Measure

10.1 This is not a parity or replicatory measure.

11.0 Additional Information

11.1 Brian Gorman at the Department of the Environment Tel: 02890 823536 or e-mail: Brian.Gorman@doeni.gov.uk can answer any queries regarding the new regulations..