
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 85

The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017

PART 2

**PRE-APPLICATION PROCEDURES &
ASSESSMENT OF RELEVANT PROJECTS**

Determination whether a project is a relevant project

6.—(1) Any person who proposes to apply for a licence, or the modification of a licence, in relation to a project which may be a relevant project may, in writing, request the Department to determine whether the project is a relevant project.

(2) A request in accordance with paragraph (1) must be accompanied by—

- (a) the information mentioned in Schedule 1; and
- (b) if the person elects to provide it, a description of any features of the project and/or measures proposed to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(3) When compiling the information mentioned in paragraph (2), the person must take into account, where relevant, the available results of any other relevant assessment of the effects of the project on the environment carried out in accordance with an enactment or pursuant to an EU obligation other than one proposed in accordance with the Directive that is relevant to the assessment of the likely significant environmental effects of the project on the environment.

(4) Where the Department considers that it has insufficient information to determine the request, it must by notice in writing inform the person and specify what further information it requires.

(a) (5) (a) Where the Department must determine whether the project is a relevant project the following matters must be taken into account—

- (i) any information provided by the person;
- (ii) where relevant, the results of preliminary verifications or assessments carried out pursuant to any EU obligation other than one implementing the requirements of the Directive; and
- (iii) such of the selection criteria set out in Schedule 2 as are relevant to the project.

(b) Where the Department makes a determination in accordance with sub-paragraph (a)—

- (i) the determination must state the main reasons for the conclusion of the Department with reference to the relevant criteria listed in Schedule 2; and
- (ii) if it is determined that the project is not a relevant project, that determination must state any features of the project and/or measures proposed to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(6) The Department must give the person written notice of its determination before the expiry of—

- (a) a period of twenty-eight days beginning with—
 - (i) the date on which the request in accordance with paragraph (1) is received; or
 - (ii) where the Department has served a notice in accordance with paragraph (4), the date on which the further information required is provided to the Department; or
- (b) where agreed in writing with the person, any other period of not more than 90 days beginning with—
 - (i) the date on which the request in accordance with paragraph (1) is received; or
 - (ii) where the Department has served a notice in accordance with paragraph (4), the date on which the further information required is provided to the Department.

(7) The Department may extend the period mentioned in paragraph (6) in exceptional cases (such as where the nature, complexity, location or size of the works demands a longer period for determination).

(8) Where the Department extends the deadline in accordance with paragraph (7) it must inform the person in writing of the reasons for the extension and of the date on which its determination in accordance with paragraph (5) is expected.

(9) Where—

- (a) the Department fails to make a determination before the expiry of the period specified in paragraph (6); or
- (b) the person is dissatisfied with the Department's determination that the project would amount to or form part of a relevant project,

the person may appeal to the Commission by notice in writing not later than twenty-eight days after the expiry of the period specified in paragraph (6) or, as the case may be, after the date of the determination of the Department.

(10) Where an appeal is made to the Commission in accordance with paragraph (9), the Commission must give notice of the appeal to the Department.

(11) The Commission must by notice in writing given to the person and the Department—

- (a) uphold or reverse the determination of the Department; or
- (b) in default of a determination by the Department, determine whether the project is a relevant project.

(12) A determination made in accordance with this regulation must be accompanied by a written statement of—

- (a) the reasons for that determination with reference to such of the selection criteria set out in Schedule 2 as are relevant; and
- (b) if the determination made in accordance with paragraph (1) is that the project is not a relevant project, any measure disclosed in accordance with paragraph 5(b)(ii).

(13) The Department or, as the case may be, the Commission must take such steps as are considered appropriate to make a determination made in accordance with this regulation available to the public.

(14) Where a person makes an application for a licence, or for the modification of a licence, in relation to a relevant project they must furnish a copy of any determination made in accordance with this regulation relative to that project with their application.

Environmental impact assessment report to be provided in relation to an application for a licence, or the modification of a licence, in respect of a relevant project

7. An environmental impact assessment report and any further information required by the Department in accordance with regulation 8 must be provided by an applicant.

Environmental impact assessment report, and opinions of the Department on the contents of an environmental impact assessment report

8.—(1) An environmental impact assessment report must include such of the information set out in Schedule 3 as is applicable to the relevant project and at least the following—

- (a) a description of the relevant project comprising information on the site, design, size and other relevant features of the project;
- (b) a description of the likely significant effects of the relevant project on the environment;
- (c) a description of the features of the relevant project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives considered by the applicant which are applicable to the relevant project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the relevant project on the environment;
- (e) a non-technical summary of the information provided in accordance with sub-paragraphs (a) to (d); and
- (f) any additional information specified in Schedule 3 applicable to the specific characteristics of the relevant project and to the environmental features likely to be affected.

(2) The environmental impact assessment report must—

- (a) be prepared by a competent person to ensure the completeness and quality of the report;
- (b) state the relevant expertise and qualifications of the competent person;
- (c) where an opinion has been issued in accordance with paragraph (6), be based on that opinion;
- (d) include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment; and
- (e) be prepared, taking into account the available results of other relevant assessments, with a view to avoiding duplication of assessment.

(3) The Department must ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report.

(4) Where the Department receives an environmental impact assessment report in relation to a relevant project, it must consult the consultation bodies and invite them to express their opinion on the information supplied by the applicant and inform them that they can make representations.

(5) A person, before making an application for a licence, or the modification of a licence, in relation to a relevant project may ask the Department for an opinion on the scope and level of detail of the information to be provided in an environmental impact assessment report accompanying such an application.

(6) If a person makes a request in accordance with paragraph (5), the Department must, having consulted the person making the request and the consultation bodies, give an opinion on the scope and level of detail of the information which should be contained in an environmental impact assessment report accompanying such an application.

(7) When making a request in accordance with paragraph (5), a person must provide the following information—

- (a) a plan sufficient to identify the specific characteristics of the relevant project;
- (b) a brief description of the nature, extent and purpose of the relevant project, including its location and technical capacity;
- (c) an explanation of the likely impact of the relevant project on the environment; and
- (d) any other information or representations which the person wishes the Department to take into account.

(8) The person making a request in accordance with paragraph (5) may also provide a description of any features of the relevant project or any measures envisaged to avoid or prevent what otherwise might have been significant adverse effects on the environment.

(9) The Department, having received a request in accordance with paragraph (5) must, if it considers that it has not been provided with sufficient information to give an opinion, notify the person of the points on which it requires additional information.

(10) The fact that the Department has given an opinion in accordance with paragraph (6) must not preclude it from subsequently requiring the person making the request to provide further information.

(11) The Department and the consultation bodies must, if requested by a person proposing to make an application for which an environmental impact assessment report is required, enter into consultation with that person to determine whether they have in their possession any information which may be relevant to the preparation of an environmental impact assessment report and, if they have, they must make it available to that person.

(12) Paragraph (11) must not require the disclosure of information where disclosure of that information may be refused in accordance with the Environmental Information Regulations 2004⁽¹⁾.

(13) If the Department or the consultation bodies provide information to a person in accordance with paragraph (11) they may require the payment of a charge which reflects the cost of making that information available.

(14) If the Department considers that an environmental impact assessment report does not contain all the information required by paragraph (1), it must by notice in writing—

- (a) inform the applicant; and
- (b) specify what further information the Department requires,

and the applicant must provide that information to the Department.

(1) SI 2004 No. 3391