
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 85

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

PART 3

PUBLICITY AND DETERMINATION

Determination of application and notice of determination

10.—(1) The Department must not determine an application for a licence, or for the modification of a licence, relating to a relevant project before the latest date allowed in accordance with these Regulations for making representations or concluding any consultation.

(2) When determining an application for a licence, or for the modification of a licence, in relation to which an environmental impact assessment report has been submitted the Department must (ensuring that in doing so it has or has access to any expertise it considers necessary)—

- (a) examine the environmental information;
- (b) reach a reasoned conclusion on the significant effects of the relevant project on the environment, taking into account the results of the examination referred to in subparagraph (a);
- (c) integrate that conclusion into the determination as to whether the application is to be granted;
- (d) if the application is to be granted, consider whether it is appropriate to impose a condition requiring any likely significant adverse effects of the relevant project on the environment to be avoided, prevented, reduced or offset (“a mitigation condition”); and
- (e) if the application is to be granted, consider whether it is appropriate to impose a condition requiring monitoring of any significant adverse effects on the environment of the relevant project (“a monitoring condition”).

(3) If the Department considers that it is appropriate to impose a monitoring condition in accordance with paragraph (2)(e), the Department must determine the procedures regarding the monitoring of significant adverse effects on the environment.

(4) The reasoned conclusion referred to in paragraph (2)(b) must be up to date at the time that the determination as to whether the application for a licence, or the modification of a licence, in relation to a relevant project is to be made; but that conclusion must be taken to be up to date if (in the opinion of the Department) it addresses the significant effects that are likely to arise as a result of the relevant project.

(5) When considering whether to impose a mitigation condition in accordance with paragraph (2)(d) or a monitoring condition in accordance with paragraph (2)(e), the Department must—

- (a) consider whether to make provision for potential remedial action;

- (b) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the relevant project and the significance of its effects on the environment; and
 - (c) consider, in order to avoid duplication of monitoring, whether monitoring arrangements required in accordance with Union legislation (other than legislation implementing the requirements of the Directive) or other legislation applicable in Northern Ireland are more appropriate than imposing a monitoring condition.
- (6) Where mitigation conditions or monitoring conditions are required, the Department must take steps to ensure that those conditions are implemented.
- (7) In cases where no statutory timescale is in place the determination of the Department as to whether the application is granted must be taken within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Department has been provided with the environmental information.
- (8) Where an application in relation to which an environmental impact assessment report has been submitted is determined by the Department, it must provide the applicant with the information specified in paragraph (9).
- (9) The information is—
- (a) if the determination is to grant the application—
 - (i) the reasoned conclusion of the Department on the significant effects of the project on the environment, taking into account the results of the examination referred to in paragraph (2)(a);
 - (ii) any mitigation conditions considered appropriate by the Department;
 - (iii) any monitoring conditions considered appropriate by the Department; and
 - (iv) whether, having regard to the likely significant environmental effects of the relevant project, the licence should contain provisions for any other purpose.
 - (b) if the determination is to refuse the application, the main reasons for the refusal; and
 - (c) information regarding the right to appeal the determination and the procedure for doing so⁽¹⁾.
- (10) Within twenty-eight days of the determination, the Department must inform the consultation bodies and publish on its website and in those newspapers in which a notice was published in accordance with regulation 9 a notice stating that the Department has granted or refused the application and stating a place and times where any person may inspect—
- (a) any relevant licence or modification thereof;
 - (b) a document containing the relevant determination and the reasons and considerations on which it is based, including information about the arrangements taken to ensure the public had the opportunity to participate in the process of making the determination;
 - (c) a description, where necessary, of the main measures to avoid, reduce and if possible offset the major adverse effects of the project;
 - (d) a summary of the results of the consultations undertaken, and information gathered, in respect of the application and how those results, in particular the comments received from an EEA State pursuant to consultation in accordance with regulation 11 have been incorporated or otherwise addressed;
 - (e) information about the public participation process; and

(1) Appeals with respect to determinations on whether to grant or refuse an application for a licence in relation to a relevant project are made in accordance with regulation 29 of the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006

- (f) information regarding any right to appeal the determination and the procedures for doing so.