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STATUTORY RULES OF NORTHERN IRELAND

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**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.