
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 86

**The Environmental Impact Assessment (Forestry)
(Amendment) Regulations (Northern Ireland) 2017**

Citation and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Forestry) (Amendment) Regulations (Northern Ireland) 2017 and come into operation on 16th May 2017.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly⁽¹⁾

Amendment of the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006

3. The Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006⁽²⁾ are amended in accordance with regulations 4 to 23.

Regulation 2 (interpretation)

4. In regulation 2(1)—

(a) for the definition of “consultation bodies” substitute—

““consultation bodies” in relation to any project means—

any public body, statutory authority or organisation which exercises statutory functions or is otherwise designated by any statutory provision as having responsibilities relating to the environment;”;

(b) for the definition of “Department” substitute—

““the Department” means the Department of Agriculture, Environment and Rural Affairs;”;

(c) for the definition of “the Directive” substitute—

““the Directive” means [Directive 2011/92/EU](#) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment as amended by [Directive 2014/52/EU](#)”;

(d) after the definition of “environmental information” insert—

““environmental impact assessment” means—

(a) the preparation of an environmental statement;

(b) the carrying out of consultations under regulation 9 and, where relevant, regulation 15;

(1) 1954 c. 33 (N.I.)

(2) [S.R. 2006 No. 518](#)

- (c) the consideration of the environmental statement and other information under regulation 16;
- (d) reaching a conclusion about the likely significant effects of the project under regulation 16; and
- (e) the consideration of that conclusion under regulation 16, before the decision whether or not to grant consent;”;
- (e) for the definition of “environmental statement” substitute—
 - ““environmental statement” means a statement that—
 - (a) includes such of the information referred to in Part 1 of Schedule 1 as is relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected;
 - (b) includes at least the information referred to in Part 2 of Schedule 1;
 - (c) takes into account, with a view to avoiding duplication of assessments, the available results of other relevant assessments under Union or national legislation, when preparing the statement;
 - (d) is based on any opinion issued pursuant to regulation 7 and where such an opinion is issued, includes the information that may reasonably be required for reaching a conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment;
 - (e) is prepared by competent persons; and
 - (f) is accompanied by a statement from the proposer outlining the relevant experience or qualifications of such persons;”;
- (f) for the definition of ‘local advertisement’ substitute—
 - ““local advertisement” means publishing or making available a notice—
 - (a) in one or more newspapers circulating in the immediate locality of any relevant project; or
 - (b) by a district council in that locality; or
 - (c) at library premises (within the meaning of section 11 of the Libraries Act (Northern Ireland) 2008 in that locality);”;
- (g) after the definition of “relevant project”, insert—
 - ““Union legislation” means any enactment in the domestic legislation of Northern Ireland giving effect to an EU obligation”.

Regulation 3 (interpretation of “relevant project”)

5. In regulation 3(c), for paragraphs (ii) and (iii) substitute—
- “(ii) involves development which is not mentioned in Schedule 1 to, or in column 1 of the table in Schedule 2 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012⁽³⁾; or
 - (iii) involves development for which planning permission is granted by Part 8 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015⁽⁴⁾.”

(3) S.R. 2012 No. 59

(4) S.R. 2015 No. 70

Regulation 4 (exemptions)

6. In regulation 4—

(a) for paragraphs (1) and (2) substitute—

“(1) The Department may direct that a particular project is exempted—

- (a) from the application of these Regulations, in accordance with Articles 1(3) or 2(4) of the Directive; or
- (b) from provisions relating to public consultation, in accordance with Article 2(5) of the Directive, provided the objectives of the directive will continue to be met.

(2) The Department shall only make a direction under paragraph (1)(a) or (b) in an exceptional case and where it does so, it shall—

- (a) consider whether in that case another form of assessment of the environmental effects of the proposed project in question would be appropriate;
- (b) make available to the public the information obtained under that other form of assessment, information relating to the making of the direction and the reasons for making it.”.

Regulation 6 (application for an opinion whether a project is a relevant project)

7. In regulation 6, for paragraphs (2) and (3) substitute—

“(2) An application under paragraph (1) shall include or be accompanied by—

- (a) a map or plan sufficient to identify the land that is the subject of the proposed project and the extent of the proposed project;
- (b) information on the characteristics of the project and its likely significant effects on the environment specified in Schedule 2A; and
- (c) such further information or representations as the proposer may wish to provide or make including a description of any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(2A) The selection criteria set out in Schedule 3 must be taken into account, where relevant, when compiling the information required by sub-paragraph (2)(b).

(2B) The proposer must take into account, where relevant, the available results of other relevant assessments of the effects on the environment that have been carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive.

(3) The Department shall, if it considers that it has not been provided with sufficient information to enable it to give an opinion under paragraph (1), notify the proposer in writing of the matters on which it requires further information and the proposer shall supply that further information to the Department within such period as the Department may reasonably require.”

Regulation 7 (opinion of the Department)

8. In regulation 7—

(a) for paragraph (1) substitute—

“(1) Where a proposer applies to the Department under regulation 6, the Department shall give to him written notice of its opinion within 90 days beginning with the date of its receipt of the application or, where it notifies the proposer under regulation 6(3) that it requires further information, the date of its receipt of that information.

(1A) In exceptional cases, where the nature, complexity, location or size of the works demands a longer period for determination, the Department may extend the deadline in paragraph (1), informing the proposer in writing of the reasons justifying the extension and of the date on which its determination is expected.”

(b) after paragraph (4), add—

“(4A) Where the opinion of the Department is that a project is not a relevant project because an environmental assessment is not required, the Department must state the main reasons for not requiring such assessment, with reference to the relevant selection criteria in Schedule 3, and where proposed by the proposer, state any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.”;

(c) for paragraph (5) substitute—

“(5) The Department may, in the absence of an application under regulation 6, give its opinion whether or not a project is or would be a relevant project and where it gives an opinion under this paragraph—

- (a) it shall give written notice of its opinion to any person who reasonably appears to it to be the proposer; and
- (b) paragraphs (2), (3), (4), (4A), (5) and (7) shall apply as they do to an opinion given under paragraph (1).”.

Regulation 9 (request as to the information to be included in an environmental statement)

9. In regulation 9, for paragraphs (1) and (2) substitute—

“(1) Before applying for consent in relation to a project, the Department must give its opinion as to the scope and level of detail of the information to be contained in the environmental statement required for that project.

(2) Before a determination has been made whether the project is or would be a relevant project, the Department shall deal with the request on the assumption that the project is a relevant project”.

Regulation 9A (Co-ordination)

10. After regulation 9, insert—

“Co-ordination

9A.—(1) Where in relation to a particular project there is, in addition to the requirement for an environmental impact assessment to be carried out in accordance with these Regulations, also a requirement to carry out a Habitats Regulations Assessment, the Department must where appropriate ensure that the Habitats Regulations Assessment and the environmental impact assessment are co-ordinated.

(2) In this regulation, a “Habitats Regulation Assessment” means an assessment under regulation 43 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.”.

Regulation 12 (publicity)

11. In regulation 12—

- (a) in paragraph (1)(d), for “28 days” substitute “30 days”;

- (b) for paragraph (4)(b), for “28 days” substitute “30 days”;
- (c) for paragraph (5)(b), for “28 days” substitute “30 days”.

Regulation 13 (further information and evidence relating to environmental statements)

12. In regulation 13—

- (a) in paragraph (4)(b), for “28 days” substitute “30 days”;
- (b) in paragraph (5)(b), for “28 days” substitute “30 days”.

Regulation 17 (notification of decisions)

13. In regulation 17—

- (a) for paragraph (1)(a) substitute—
 - “(a) give notice in writing of its decision to the applicant, the consultation bodies and any person from whom it received representations in relation to the application in accordance with paragraph (2);”.
- (b) for paragraph (2) substitute—
 - “(2) Each notice under paragraph (1)(a) shall inform the person concerned of the determination stating that the Department has taken into account the environmental information relating to the application and shall give a statement of—
 - (a) where the decision in paragraph (1)(a) is to grant consent—
 - (i) the reasoned conclusion of the Department pursuant to Article (1)(2)(g) (iv) of the Directive and any environmental conditions attached to the decision;
 - (ii) a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and if possible offset significant adverse effects on the environment as well as, where appropriate, monitoring measures;
 - (b) where the decision in paragraph (1)(a) is to refuse consent, the main reasons for the refusal.”.
- (c) for paragraph (3)(b) substitute—
 - “(b) the main reasons and considerations on which its determination is based, including a summary of the results of the consultations and the information gathered pursuant to regulations 9, 10 and 15 and how those results have been incorporated or otherwise addressed; and”.

Regulation 22 (conditions to be included in every consent)

14. For regulation 22, substitute—

- “(1) Every consent shall include conditions to the effect that—
 - (a) work in relation to the relevant project shall be commenced within such period (not being more than 5 years beginning with the date consent is granted) as is specified in the consent;
 - (b) no work shall be carried out in relation to the relevant project after the expiration of such period (not being more than 10 years beginning with the date consent is granted) as is specified in the consent;
 - (c) the proposer must implement procedures to monitor significant adverse effects on the environment.

(2) In sub-paragraph (1)(c), the types of parameters to be monitored and the duration of monitoring must be proportionate to the nature, location and size of the project and the significance of its effects on the environment but, to avoid duplication, existing monitoring arrangements under Union legislation other than the Directive may be used, if appropriate.”

Regulation 29 (determinations following consideration of project under regulation 28)

15. In paragraph (1)(d) of regulation 29, for the words “28 days”, substitute “30 days”.

Regulation 30 (notification of determination that a proposed project is likely to have significant effects on the environment)

16. In paragraph (2)(c) of regulation 30, for “28 days” substitute “30 days”.

Regulation 32 (publicity for an environmental statement)

17. In regulation 32—

- (a) in paragraph (2)(b), for “28 days” substitute “30 days”;
- (b) in paragraph 3(b), for “28 days” substitute “30 days”.

Regulation 33 (assistance in the preparation of environmental statements)

18. In regulation 33—

- (a) in paragraph (4)(b), for the words “28 days” substitute the words “30 days”;
- (b) in paragraph (5)(b), for the words “28 days” substitute the words “30 days”.

Regulation 35 (proposed project likely to have significant effect on the environment in another EEA State)

19. In regulation 35(1)(c), for the words “28 days”, substitute the words “30 days”.

Regulation 36 (determination of whether proposed project should proceed)

20. In regulation 36—

- (a) in paragraph (7)(a)—
 - (i) after the words “general and local” substitute the words “general, local and electronic”;
 - (ii) for the words “28 days” substitute the words “30 days”;
- (b) in paragraph (7)(a)(ii), for the words “28 days” substitute the words “30 days”.

Regulation 38 (revocation and transitional provisions)

21. In regulation 38, after paragraph (2), insert—

“(3) The amendments made to these regulations by the Environmental Impact Assessment (Forestry) (Amendment) Regulations (Northern Ireland) 2017 do not apply to projects where, before the commencement date—

- (a) the proposer has applied in writing to the Department under regulation 6(1) for its opinion whether a project is a relevant project;

- (b) the proposer has requested the Department to give its opinion under regulation 9(1) as to the scope and level of detail of the information to be contained in the environmental statement required for that project; or
- (c) the environmental statement has been submitted under regulation 10(1).”.

Regulation 39 (review)

22. After regulation 38, insert—

“Review

39.—(1) The Department must from time to time—

- (a) carry out a review of the regulatory provision in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision;
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(3) The first report must be published before the end of the period of five years beginning with the date of coming into operation of this regulation.

(4) Subsequent reports under this regulation must be published at intervals not exceeding five years.

(5) In this regulation, “regulatory provision” has the meaning given by section 32(4) of the Small Business, Enterprise and Employment Act 2015.”.

Schedules

23.—(1) For Schedule 1 substitute the schedule contained in Schedule 1.

(2) After Schedule 2, insert new Schedule 2A contained in Schedule 2.

(3) For Schedule 3 substitute the schedule contained in Schedule 3.

(4) For Schedule 4 substitute the schedule contained in Schedule 4.

Sealed with the Official Seal of the Department, of Agriculture, Environment and Rural Affairs on 15th May 2017.



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A senior officer of the
Department of Agriculture, Environment and
Rural Affairs

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
