
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Planning Reform (Northern Ireland) Order 2006

PART IV

CROWN APPLICATION

Crown application

21.—(1) In Part XII of the principal Order before Article 113 (application to Crown land) insert—

“Application to the Crown

112A.—(1) This Order (except Articles 74, 76B, 80 and 82B) binds the Crown.

(2) But paragraph (1) is subject to express provision made by the following provisions of this Part.

Enforcement in relation to the Crown

112B.—(1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Order.

(2) But paragraph (1) does not have effect to prohibit the doing of anything by or on behalf of the Crown which falls within the circumstances described in Article 44(7)(a) to (d).

(3) The Department shall not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

(4) The appropriate authority may give consent under paragraph (3) subject to such conditions as it thinks appropriate.

(5) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Order.

(6) A step taken for the purposes of enforcement includes—

- (a) entering land;
- (b) bringing proceedings;
- (c) the making of an application.

(7) A step taken for the purposes of enforcement does not include—

- (a) service of a notice;
- (b) the making of an order (other than by a court).

References to an estate in land

112C.—(1) Paragraph (2) applies to the extent that an estate in land is a Crown estate.

(2) Anything which requires or is permitted to be done by or in relation to the owner of the estate in land shall be done by or in relation to the appropriate authority.

(3) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated for the purposes of this Article as having an estate in that land.

Applications for planning permission, etc. by Crown

112D.—(1) This Article applies to an application for—

- (a) planning permission, listed building consent, hazardous substances consent or conservation area consent; or
- (b) a determination under Article 48 or a certificate under Article 83B.

(2) The Department may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.

Service of notices on the Crown

112E.—(1) Any notice or other document required under this Order to be served on the Crown shall be served on the appropriate authority.

(2) Section 24 of the Interpretation Act (Northern Ireland) 1954 does not apply for the purposes of the service of such a notice or document.

(3) “Appropriate authority” shall be construed in accordance with Article 118(1).”.

(2) Section 60 of the Mineral Development Act (Northern Ireland) 1969 (c. 35) (application of Planning Orders to certain mining development on Crown property) ceases to have effect.

(3) Schedule 1 makes further amendments to the principal Order in relation to the application of that Order to the Crown.

National security

22.—(1) After Article 123 of the principal Order insert—

“Inquiries to be held in public subject to certain exceptions

123A.—(1) Subject to paragraph (2), at any public local inquiry or independent examination held under this Order oral evidence shall be heard in public and documentary evidence shall be open to public inspection.

(2) If the Secretary of State is satisfied in the case of any such inquiry or examination—

- (a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in paragraph (3); and
- (b) that the public disclosure of that information would be contrary to the national interest,

he may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry or examination by such persons or persons of such descriptions as he may specify in the direction.

(3) The matters referred to in paragraph (2)(a) are—

- (a) national security; and
- (b) the measures taken or to be taken to ensure the security of any premises or property.

(4) If the Secretary of State is considering giving a direction under paragraph (2) the Advocate General for Northern Ireland may appoint a person to represent the interests of

any person who will be prevented from hearing or inspecting any evidence at an inquiry or examination if the direction is given.

(5) If before the Secretary of State gives a direction under paragraph (2) no person is appointed under paragraph (4), the Advocate General for Northern Ireland may at any time appoint a person as mentioned in paragraph (4) for the purposes of the inquiry or examination.

(6) The Lord Chancellor may by rules make provision—

(a) as to the procedure to be followed by the Secretary of State before he gives a direction under paragraph (2) in a case where a person has been appointed under paragraph (4);

(b) as to the functions of a person appointed under paragraph (4) or (5).

(7) Rules made under paragraph (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(8) If a person is appointed under paragraph (4) or (5) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry or examination in relation to a matter mentioned in paragraph (3) (the responsible person) to pay the fees and expenses of the appointed representative.

(9) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount shall be determined by the Secretary of State.

(10) The Secretary of State shall cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.

(11) An amount so certified is recoverable from the responsible person as a civil debt.

(12) In relation to any time before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002, the reference in paragraphs (4) and (5) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General.

National security

123B.—(1) Where, in relation to an application for planning permission or an application for any consent, certificate, approval or determination under this Order or a development order, the Secretary of State is of the opinion—

(a) that the consideration by the Department of the application or of any representations or objections made in respect of the application raises matters relating to—

(i) national security; or

(ii) the measures taken or to be taken to ensure the security of any premises or property; and

(b) that the public disclosure of information as to any of those matters would be contrary to the national interest,

he may certify that the application is one to which this Article applies.

(2) The Department shall, subject to any provision contained in rules under paragraph (3), cause a public local inquiry to be held for the purpose of determining any application to which this Article applies.

(3) The Secretary of State may by rules make provision—

(a) for the procedure to be followed in relation to the issue of a certificate under paragraph (1);

(b) enabling the Department to dispense with an inquiry where the Department has not received any objections or representations in respect of an application to which this

Article applies or where every objection or representation made in respect of such an application is withdrawn.

(4) Articles 31, 32(1), 33, 56, 57(1), 83E, 123(1), paragraphs 7(1) and 8 of Schedule 1, paragraphs 6(11) and (12), 11 and 13 of Schedule 1A and paragraphs 9 and 10 of Schedule 1B do not apply in relation to an application to which this Article applies.

(5) Rules made under paragraph (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(6) Schedule A1 to the Interpretation Act (Northern Ireland) 1954 applies in relation to a public local inquiry held under paragraph (2) as it applies to a local inquiry held under an enactment passed or made as mentioned in section 23 of that Act.”.

(2) In Article 123 of the principal Order (local inquiries), in paragraph (2) after “procedure” insert “(except the procedure in relation to any matter for which rules under paragraph (6) of Article 123A or paragraph (3) of Article 123B may make provision)”.

Trees in conservation areas: acts of Crown

23. In Article 66A of the principal Order (preservation of trees in conservation areas) after paragraph (4) add—

“(5) An emanation of the Crown shall not, in relation to a tree to which this Article applies, do an act mentioned in paragraph (1) unless—

- (a) the first condition is satisfied; and
- (b) either the second or third condition is satisfied.

(6) The first condition is that the emanation serves notice of an intention to do the act (with sufficient particulars to identify the tree) on the Department.

(7) The second condition is that the act is done with the consent of the Department.

(8) The third condition is that the act is done—

- (a) after the end of the period of 6 weeks starting with the date of the notice; and
- (b) before the end of the period of 2 years starting with that date.”.

Subordinate legislation

24.—(1) The Department may by order subject to negative resolution provide that relevant subordinate legislation applies to the Crown.

(2) An order under paragraph (1) may modify such subordinate legislation to the extent that the Department thinks appropriate for the purposes of its application to the Crown.

(3) Relevant subordinate legislation is an instrument which—

- (a) is made under or (wholly or in part) for the purposes of the principal Order;
- (b) is made before the coming into operation of Article 21 of this Order; and
- (c) is specified in the order.

Crown application: transitional

25. Schedule 2 (which makes transitional provision in consequence of the application to the Crown of the principal Order) has effect.