

*Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the
Northern Ireland Act 2000, for approval by resolution of each House of Parliament*

DRAFT STATUTORY INSTRUMENTS

2006 No. (N.I.)

NORTHERN IRELAND

**The Electricity Consents (Planning)
(Northern Ireland) Order 2006**

*Made - - - - 2006
Coming into operation in accordance with Article 1(2)*

At the Court at Buckingham Palace, the ** day of ** 2006
Present,
The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title, commencement and interpretation

1.—(1) This Order may be cited as the Electricity Consents (Planning) (Northern Ireland) Order 2006.

(2) Articles 2 and 3 come into operation on such day as the Department of Enterprise, Trade and Investment may by order appoint.

(3) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

Deemed planning permission, etc on grant of certain consents under Electricity Order

2.—(1) Schedule 8 to the [Electricity \(Northern Ireland\) Order 1992 \(NI 1\)](#) (consents under Articles 39 and 40 of that Order) is amended as follows.

(2) In paragraph 1 for the words from “the land to which” to the end substitute
“the place to which the application relates, that is—

- (a) in the case of an application under Article 39, the place where it is proposed to construct the generating station, where the proposed extension will be or where the station proposed to be operated is situated; and
 - (b) in the case of an application under Article 40, the land across which the electric line is proposed to be installed or kept installed”.
- (3) After paragraph 1 insert—

“Objections

1A.—(1) Regulations shall make provision for securing—

- (a) that notice of any application for consent under Article 39 or 40 is, in such circumstances as may be prescribed, published in such manner as may be prescribed;
- (b) that notice of any such application is served—
 - (i) by the Department on the Department of the Environment;
 - (ii) on such district council or councils as the Department may direct; and
 - (iii) in such circumstances as may be prescribed or where the Department so directs, on such other persons as may be prescribed or, as the case may be, specified in the direction;
- (c) that every notice published or served in pursuance of the regulations states the period (not being less than such minimum period as may be prescribed) within which, and the manner in which, objections to the application may be made to the Department.

(2) In relation to applications for consent under Article 39 to the extension of a generating station or to the operation of such a station in a different manner, regulations under this paragraph may include provision for enabling the Department to give directions dispensing with the requirements of the regulations in such cases as it thinks fit.

(3) Where in the case of an application for consent under Article 39 or 40 objections have been sent to the Department in pursuance of regulations made under this paragraph, the Department shall—

- (a) consider those objections, together with all other material considerations; and
- (b) determine whether an inquiry should be held with respect to the application.

(4) If the Department thinks it appropriate to do so, the Department shall (in exercise of its powers under Article 66), cause an inquiry to be held.

(5) If the Planning Appeals Commission is appointed to conduct the inquiry, the inquiry shall be conducted—

- (a) if rules under Article 66(2) so provide, in accordance with such rules;
- (b) in any other case, in accordance with Article 111(5) of the Planning (Northern Ireland) Order 1991.

(6) Before determining whether to grant any consent under Article 39 or 40 the Department shall consider—

- (a) any objections which have been sent to the Department in pursuance of regulations made under this paragraph; and
- (b) where an inquiry has been held in respect of the application for the consent, the report of the inquiry.

Inquiries

1B.—(1) Where in accordance with paragraph 1A(4) an inquiry is to be held in respect of an application for consent under Article 39 or 40, the Department shall inform the applicant accordingly.

(2) The applicant shall in two successive weeks publish a notice stating—

- (a) the fact that the application has been made, and the purpose of it, together with a description of the place to which it relates;
- (b) a place in the vicinity where a copy of the application, and of the map referred to in it, can be inspected; and
- (c) the place, date and time of the inquiry.

(3) A notice under sub-paragraph (2) shall be published in at least two newspapers circulating among persons likely to be affected if the consent applied for is given.

(4) If it appears to the Department that, in addition to the publication of a notice in accordance with sub-paragraphs (2) and (3), further notification of the inquiry should be given (either by the service of notices, or by advertisement, or in any other way) in order to secure that the information specified in sub-paragraph (2)(a) to (c) is sufficiently made known to persons likely to be affected if the consent applied for is given, the Department may direct the applicant to take such further steps for that purpose as may be specified in the direction.

(5) Where in accordance with paragraph 1A(4) an inquiry is to be held in respect of an application for consent under Article 40 and the Department is proceeding concurrently as mentioned in Article 65(4), the inquiry shall extend to all the matters arising in the concurrent proceedings, and any notice of the inquiry (in addition to any other matters required to be stated in it) shall indicate the extent of the inquiry accordingly.

Additional inspectors

1C.—(1) This paragraph applies in the case where a single individual (“the lead inspector”) is appointed to conduct—

- (a) an inquiry by virtue of paragraph 1A(4); or
- (b) an inquiry which is a combination under Article 66(3) into one inquiry—
 - (i) of two or more such inquiries; or
 - (ii) of one or more such inquiries and one or more other inquiries.

(2) At any time after appointing that individual, the Department may direct him—

- (a) to consider such matters relating to the conduct of the inquiry as are specified in the direction; and
- (b) to make recommendations to the Department about those matters.

(3) After considering the recommendations of the lead inspector, the Department may—

- (a) appoint for the purposes of the inquiry such number of additional inspectors as it thinks appropriate; and
- (b) direct that each additional inspector shall consider such of the matters to which the inquiry relates as are allocated to him by the lead inspector.

(4) An additional inspector shall—

- (a) comply with every direction as to procedural matters given to him by the lead inspector; and
- (b) report to the lead inspector on every matter allocated to him.

- (5) It is to be for the lead inspector to report to the Department on the consideration of both—
- (a) the matters which he considered himself; and
 - (b) the matters the consideration of which was allocated to additional inspectors.
- (6) The power of the Department to give directions to the lead inspector may be exercised on one or more different occasions after the appointment of the lead inspector.
- (7) Accordingly—
- (a) the recommendations that may be made by the lead inspector following such a direction include, in particular, a recommendation for varying the number of additional inspectors; and
 - (b) the power of the Department to appoint an additional inspector includes power to revoke such an appointment.
- (8) In the case of a lead inspector appointed as mentioned in sub-paragraph (1)(b)(ii), references in this paragraph to the Department are to be read as references to the Department concerned within the meaning of Article 66(4).”
- (4) At the end add—

“Deemed planning permission, etc.

3.—(1) On granting a consent under Article 39 or 40 in respect of any operation or change of use that constitutes development, the Department may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

(2) The provisions of the Planning (Northern Ireland) Order 1991 (except Article 32 (appeals)) shall apply in relation to any planning permission deemed to be granted by virtue of a direction under this paragraph as if it had been granted by the Department of the Environment on an application under that Order.

(3) On granting a consent under Article 39 in respect of any operation or change of use that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the Department may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

(4) Before giving a direction under sub-paragraph (3) the Department shall consult—

- (a) the Department of the Environment; and
- (b) the Health and Safety Executive for Northern Ireland.

(5) The provisions of the Planning (Northern Ireland) Order 1991 (except Article 57 (appeals)) shall apply in relation to any hazardous substances consent deemed to be granted by virtue of a direction under this paragraph as if it had been granted by the Department of the Environment on an application under that Order.

(6) Article 124 of the Planning (Northern Ireland) Order 1991 shall have effect as if planning permissions and hazardous substances consents deemed to be granted by virtue of a direction under this paragraph were included in the list of matters in paragraph (1) of that Article.

(7) In this paragraph —

- (a) “ancillary development”, in relation to development consisting of the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station;

- (b) expressions which are also used in the Planning (Northern Ireland) Order 1991 have the same meanings as in that Order.”.

Concurrent proceedings

3.—(1) Article 65 of the [Electricity \(Northern Ireland\) Order 1992 \(NI 1\)](#) (concurrent proceedings) is amended as follows.

(2) After paragraph (1) insert—

“(1A) Paragraph (1) does not apply to an application for a consent under Article 39 or 40.”.

(3) At the end add—

“(3) Paragraph (4) applies where a licence holder makes an application to the Department for its consent under Article 40 for the installation of an electric line above ground and, for a purpose connected with the proposed installation of that line, makes one or both of the following—

- (a) an application to the Department under paragraph 10 of Schedule 4 for a necessary wayleave;
- (b) a reference to the Department under paragraph 14 (felling and lopping of trees) of that Schedule.

(4) The proceedings which—

- (a) in the case of an application under paragraph 10 of Schedule 4, are required by that paragraph to be taken in relation to that application;
- (b) in the case of a reference under paragraph 14 of that Schedule, are required by that paragraph to be taken in relation to that reference,

may be taken concurrently (so far as practicable) with the proceedings required by Schedule 8 to be taken in relation to the application for consent under Article 40.

(5) Where, for a purpose connected with the proposed installation of an electric line, a licence holder makes—

- (a) an application to the Department under paragraph 10 of Schedule 4 for the necessary wayleave; and
- (b) a reference to the Department under paragraph 14 of that Schedule,

the proceedings required by the said paragraph 10 to be taken in relation to the reference under that paragraph may be taken concurrently (so far as practicable) with the proceedings required by the said paragraph 14 to be taken in relation to the application under that paragraph.”.

A.K. Galloway
Clerk of the Privy Council

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Electricity Consents (Planning) (Northern Ireland) Order 2006 No. 2955*

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Electricity (Northern Ireland) Order 1992 to enable the Department of Enterprise, Trade and Investment to grant deemed planning permission and deemed hazardous substances consent on an application for its consent under Schedule 8 to that Order.