

**PLANNING AMENDMENT
(NORTHERN IRELAND) ORDER 2003**

S.I. 2003 No. 430 (N.I. 8)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Control over development

Article 18 – Demolition

This Article introduces an amendment to make it clear that all demolition comes within the meaning of development for planning purposes. However, for the time being, only buildings in areas of townscape character and those buildings whose demolition is already subject to planning control, i.e. historic monuments, listed buildings and buildings in conservation areas, are subject to this new regime. This is achieved by specifying in a departmental direction, under a new Article 11(2)(f), those buildings whose demolition does not come within the meaning of development for planning purposes and those buildings that do. The purpose of this is to avoid the possibility of a large number of planning applications for the demolition of relatively minor structures clogging up the planning process.

Article 19 - Reversion to previous lawful use

This Article brings NI legislation into line with GB legislation by specifying that it is lawful to revert to a previous legal use following service of an enforcement notice or at the end of a temporary planning permission. In NI, technically, such reversion previously required planning permission.

Article 20 - Power of Department to decline to determine applications

To prevent developers using "repeat applications" as a tactic, this Article gives the Department power to decline to determine a planning application if, within the preceding 2 years, it had refused an application designated under Article 31 of the Planning (NI) Order 1991, or the Planning Appeals Commission has dismissed an appeal for a similar proposal, and there has been no material change in circumstances.

Article 21 - Assessment of environmental effects

Under EC Directive [85/337/EEC](#) there is a requirement to make regulations which set out the classes of development for which an environmental assessment may be required. This requirement was implemented by the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999. This Article makes specific primary provision to allow new regulations to go beyond the environmental assessment provisions of the Directive. For example, in England and Wales, the regulations were extended to include wind generators, motorway service areas and coastal protection works in the classes of development for which an environmental assessment may be required.

*This Explanatory Memorandum refers to the Planning
Amendment (Northern Ireland) Order 2003No. 430 (N.I. 8)*

Article 22 - Dismissal of appeals in cases of undue delay

To prevent time wasting appeals and appeals lodged for tactical purposes, this Article gives the Planning Appeals Commission the power to dismiss an appeal if it appears that the appellant is causing undue delay in its progress.

Article 23 - Planning agreements

This Article amends the provisions of the 1991 Order for planning agreements and introduces new provisions relating to the modification or discharge of an agreement. A party to a planning agreement is enabled by this Article to apply to the Department for modification and discharge of an agreement with a right of appeal to the Planning Appeals Commission against the Department's determination. The Article also creates a new offence for the wilful obstruction of any person authorised to enter land to carry out works required by a planning agreement. District Councils are also given a statutory consultative role when a planning agreement is being in drawn up, modified, varied or discharged.