
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 73

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999

Part VII

Unauthorised Development

Interpretation of Part VII

20. In this Part—

“deemed application” shall be construed in accordance with Article 71(3) (appeals against enforcement notice — supplementary provisions relating to planning permission);

“enforcement notice” means a notice issued under Article 68 (enforcement notices);

“ground (a) appeal” means an appeal under Article 69 (appeal against enforcement notice), so far as brought on the ground mentioned in paragraph (3)(a) of that Article.

Prohibition on the grant of planning permission for unauthorised development

21. The Commission shall not grant planning permission under paragraph (1) of Article 71 (appeal against enforcement notice — supplementary provisions relating to planning permission) in respect of unauthorised EIA development unless it has first taken environmental information into consideration, and states in its decision that it has done so.

Determination as to need for environmental statement, etc.

22.—(1) Where it appears to the Department that the matters constituting the breach of planning control comprise Schedule 1 or Schedule 2 development, the Department shall, before the enforcement notice is issued, make a determination, taking into account the selection criteria, as to whether the development is or is not EIA development.

(2) Where it appears to the Department that the matters constituting the breach of planning control comprise or include EIA development it shall serve with a copy of the enforcement notice a notice (“regulation 22 notice”) which shall—

- (a) include a copy of the determination required by paragraph (1) and a written statement giving clearly and precisely full reasons for its conclusions; and
- (b) require a person who gives notice of an appeal under Article 69 (appeal against enforcement notice) to submit to the Commission with the notice sufficient copies of the environmental statement relating to the unauthorised development to enable the Commission to comply with regulation 25.

(3) The Department shall send a copy of the regulation 22 notice to—

- (a) the Commission;

- (b) the district council for the area in which the land to which the unauthorised development relates is situated; and
- (c) any other authorities likely to be concerned by the unauthorised development by reason of their specific environmental responsibilities.

(4) Where the Department serves the Commission with a copy of a regulation 22 notice it shall also provide it with a list of the other persons to whom, in accordance with paragraph (3), a copy of the notice has been or is to be sent.

(5) Where a person gives notice of appeal under Article 69 and the Department has served on that person a regulation 22 notice with which he does not agree, that person may by notice in writing, within 4 weeks of the service of the enforcement notice, inform the Department that he proposes to seek a hearing before the Commission.

Time period for submission of environmental statement

23. Where the Department determines, or following a hearing by the Commission confirms that an environmental statement is required, it shall be submitted to the Commission within 6 months from the date of the determination or such extended period as may be agreed in writing between the applicant and the Commission and if not so submitted the deemed application for planning permission and the ground (a) appeal (if any) shall lapse at the end of that period.

Provision of information

24.—(1) Subject to paragraph (2) any person on whom a copy of a regulation 22 notice is served pursuant to regulation 22(3)(b) and (c) (“the consultee”) shall, if requested by the person on whom the regulation 22 notice was served, or may without such request, enter into consultation with him to determine whether the consultee has in his possession any information which he or they consider relevant to the preparation of an environmental statement and, if they have, the consultee shall make any such information available to the prospective applicant.

(2) Regulation 8(2) and 16(2) shall apply to information under paragraph (1) as they apply to information under regulation 8(1).

Procedure where the Commission receives an environmental statement

25.—(1) Where the Commission receives an environmental statement, or a statement referred to by the appellant as an environmental statement, in connection with an enforcement appeal it shall serve a copy on the Department and those bodies on whom a copy of the regulation 22 notice was served.

(2) The Commission shall give not less than 4 weeks notice to the Department and the bodies referred to in paragraph (1) that environmental information will be taken into consideration in determining the ground (a) appeal (if any) and inform them that they may make representations.

Further information and evidence respecting environmental statements

26.—(1) Regulation 15(1) and (2) shall apply in relation to further information as if the reference to “the Department” was omitted and the word “appellant” was substituted for the word “applicant”.

(2) If an appellant on whom notice has been given under paragraph (1) fails to provide the further information within the period specified in the notice, the deemed application and the ground (a) appeal (if any) shall lapse at the end of that period.

(3) Regulations 25 (procedure where the Commission receives an environmental statement) and 27 (publicity for environmental statements and decisions) shall apply in relation to further

information received by the Commission in accordance with paragraph (1) as if references in those regulations to an environmental statement were references to the further information.

(4) The Commission shall send the Department a copy of any notice sent to the applicant under paragraph (1).

Publicity for environmental statements and decisions

27.—(1) Where the Commission receives a copy of an environmental statement, or a statement submitted by the appellant referred to as an environmental statement, in connection with an enforcement appeal it shall publish in at least one newspaper circulating in the locality in which the land to which the enforcement notice relates is situated (“the locality”) a notice stating—

- (a) the name of the appellant and that he has appealed to the Commission against the enforcement notice;
- (b) the address or location of the land to which the notice related and the nature of the development;
- (c) that a copy of the environmental statement may be inspected by members of the public at all reasonable hours;
- (d) an address in the locality at which the statement may be inspected and the latest date it will be made available for inspection, being a period of 4 weeks from the date of the first publication of the notice;
- (e) that any person wishing to make representations about any matter dealt with in the statement should make them in writing, no later than 4 weeks after the date of the first publication of the notice; and
- (f) the address to which such representations are to be sent.

(2) Where the Commission determines the ground (a) appeal it shall inform the Department of its decision and the provisions of regulation 17 (duty to inform the public of decisions) shall apply to any grant of planning permission under Article 71 as they apply to a grant of planning permission under Part IV of the 1991 Order.

Involvement of other Member States

28. Regulation 18 (development likely to have significant effects on the environment in another Member State) shall apply subject to the following modifications—

- (a) for regulation 18(1)(a) substitute—
 - “(a) on the consideration of an appeal under Article 69 (appeal against enforcement notice), the Commission is of the opinion that matters which are alleged to constitute the breach of planning control comprise or include EIA development and the development has or is likely to have significant effects on another Member State, it shall notify the Department; and”;
- (b) in regulation 18(1)(i) delete the word “proposed”;
- (c) in regulation 18(3)(a) for the words “a copy of the application concerned” substitute the words “a description of the development concerned”; and
- (d) in regulation 18(3)(b) for “that application” substitute “the deemed application under Article 71(3)”.