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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2000 (“the 2000 Regulations”) provided for the implementation in relation to forestry projects of Council Directive [85/337/EEC](#) (“the Directive”)(as amended by Council Directive [97/11/EC](#)) on the assessment of the effects of certain public and private projects on the environment. The Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 (“the Regulations”) restate the provisions of the 2000 Regulations and implement amendments made to the Directive by Council Directive [2003/35/EC](#) (that provides for public participation in certain environmental decision making). The 2000 Regulations are therefore revoked.

In Part 1 the Regulations describe projects that are relevant under the Regulations and restrictions that apply (regulation 3). There is provision for the Department of Agriculture and Rural Development (“the Department”) to direct that a particular project is exempt from environmental assessment requirements, but in so doing the Department shall consider whether another form of assessment would be appropriate and to make information concerning that assessment available to the public (regulation 4).

A person under Part 2 who proposes to carry out a project may apply to the Department for an opinion as to whether the project would have a significant effect on the environment (is a relevant project) (regulation 6). In determining its opinion the Department must take account of specified environmental criteria and consult with the consultation bodies. The Department may issue an opinion on a proposed project without formally receiving an application. The Department on making its opinion is required to make that opinion and specified additional information available to the public, and there is provision for representations to be made in response to that opinion (regulation 7). An opinion that the project is not a relevant project will lapse if the project is not completed within five years (regulation 8).

The proposer of a project may request an opinion from the Department as to the information that should be included in an environmental statement. The Department may in writing notify the proposer to provide additional information to the Department to enable it to formulate its opinion. The Department is required to consult the consultation bodies prior to giving its opinion (regulation 9).

Sufficient copies of the required documentation must accompany applications for consent for a relevant project in order that the Department can meet public participation requirements (regulation 10). The Department and consultation bodies, where requested, are required to enter into consultation with an applicant for consent and to provide relevant information where this is available. The Department and any consultation body may also voluntarily enter into consultation with an applicant (regulation 11).

The Department is required to administer local and general publicity for an application and to ensure that representations on the likely environmental effects of the proposed project can be made to the Department (regulation 12). Where the Department has by notice required further information from an applicant or should any additional relevant information become available it shall make this information available to the public (regulations 13 and 14).

Where it appears that the project may be likely to have significant effects on the environment in another State in the European Economic Area, provision is made for the authorities and the public concerned of that State to be consulted before a decision is made (regulation 15).

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In making its decision the Department is required to have regard to the environmental statement, the representations received by it and the direct and indirect effects of the relevant project on the environmental factors specified in Schedule 4 (regulation 16). The Department must in writing notify the applicant and persons from whom it received representations of its decision, and by advertisement, make the decision and the details by which an appeal may be made available to the public (regulation 17).

There is provision for those persons who received written notice of a decision to appeal against that decision. An appellant is entitled to be heard by a person appointed by the Department who shall determine whether the appeal is to be conducted through written representation or by a hearing. Notification of the outcome shall be made to all persons that made a representation in respect of that appeal (regulations 18-21).

There is a requirement that any consent granted by the Department shall be subject to specified conditions (regulation 22).

The Department is given powers to serve enforcement notices where relevant projects are carried out without consent or in breach of conditions. Penalties are specified for breach of an enforcement notice. A power of entry and certain default powers are conferred on officers authorised by the Department (regulations 23-25).

The Department is required to keep a register of directions, opinions, and determinations for public inspection (regulation 26).

Under Part 3 the Department is required to consider if a project it intends to carry out, other than a project which is mentioned in Column 1 of the table to paragraph 2 of Schedule 2 and which does not exceed the thresholds prescribed in Schedule 2, would have a significant effect on the environment (is a relevant project), taking into account the selection criteria in Schedule 3 (regulation 28). Where the Department decides that a project is not relevant the Department is required to administer local and general publicity and to ensure that representations on the likely environmental effects of the project can be made to the Department. The Department is also required to send a copy of the publicity notice to each of the consultation bodies. The Department may proceed if no representations are made or can determine that, in the light of any representations, the project is relevant (regulation 29).

Where the Department determines that a project is likely to have significant effects on the environment the Department is required to administer local and general publicity and to ensure that representations on the likely environmental effects of the project may be made to the Department. The Department is also required to send a copy of the advertisement notice to each of the consultation bodies (regulation 30). The Department shall then prepare an environmental statement (regulation 31).

The Department is required to administer local and general publicity and provide details of where the environmental statement may be accessed and ensure that representations on the likely environmental effects of the project may be made. The Department is required to send copies of the advertisement notice and the environmental statement to the consultation bodies and ensure that representations on the likely environmental effects of the project may be made. (regulation 32). In the preparation of the environmental statement the Department can seek information from anyone it believes has information which may be relevant. Where the Department receives additional information the Department is required to administer local and general publicity and to ensure that representations on the likely environmental effects of the project may be made to the Department. The Department is also required to send a copy of the advertisement notice to each of the consultation bodies and to ensure that representations may be made (regulation 33).

The Department may make reasonable charges in respect of copies of information being supplied (regulation 34).

Where the Department considers that a project may have a significant effect on another EEA country, copies of the advertisement notice referred to in regulation 32 along with any available information shall be sent to that EEA country. The Department is to ensure that representations may be made. If

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requested the Department shall send copies of the project to the authorities and the public likely to be affected in the EEA country. The Department is to advise the EEA country of its determination including reasons and considerations (regulation 35).

Following the consultation process the Department shall assess if the project should proceed taking into account any additional information and any representations received and the effects of the proposed project on the environmental factors specified in Schedule 4.

Where objections have not been withdrawn and the Department considers that the project should proceed it shall appoint a person who shall be entitled to request additional information which, if provided, shall be advertised by the Department. The Department is to ensure that representations may be made. Any new information is to be sent to the appointed person.

The appointed person shall assess the information available to him and may hear oral views from the Department and others and shall decide if the project is to proceed, is to proceed subject to conditions, or should not proceed. His determination is to be sent to the Department and any person making representation to him. The Department shall advertise the outcome and shall keep a record of the determination which shall be made available to the public on request (regulation 36).

The Department shall make available to the public all relevant information when the advertisement is published advising that the Department has determined that a project is likely to have significant effects on the environment. Also, the Department shall make available to the public any further information which became available after publication of the advertisement (regulation 37).

In Part 4 'The 2000 Regulations' are revoked. Transitional provisions apply, including applications for consent, under the 2000 Regulations as if they had been made under these Regulations (regulation 38).