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STATUTORY RULES OF NORTHERN IRELAND

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**2007 No. 346**

**The Roads (Environmental Impact Assessment)  
Regulations (Northern Ireland) 2007**

**Amendment of the Roads (Northern Ireland) Order 1993**

2.—(1) The Roads (Northern Ireland) Order 1993(1) shall be amended in accordance with this regulation.

(2) In Article 67(2) (environmental impact assessment)—

(a) in paragraph (1)—

(i) omit the definition of “the Directive”; and

(ii) after the definition of “Annex” insert the following —

““the Directive” means Council Directive No.85/337/EEC(3) on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive No. 97/11/EC(4) and Directive No. 2003/35/EC(5) of the European Parliament and Council;

“EEA State” means a Member State, Norway, Iceland or Liechtenstein;

“member of the public” includes any body of persons;”;

(b) in paragraph (4), in sub-paragraph (b), for “publish an environmental statement” substitute “prepare an environmental statement and publish notice of it in accordance with paragraphs (3), (3A) and (9) of Article 67A”.

(3) Article 67A(6) (procedure) is amended as follows—

(a) omit paragraph (2);

(b) in paragraph (3), for “An” substitute “Notice of the”;

(c) after paragraph (3), insert—

“(3A) The notice must state—

(a) that the Department is considering implementing the project;

(b) the proposed location and nature of the project;

(c) that the project is subject to the environmental impact assessment procedure required by this Part and, where relevant, that Article 67B applies;

(d) that a copy of the environmental statement may be inspected at an address in the area in which the project is proposed to be situated during the period specified under sub-paragraph (i);

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(1) S.I. 1993/3160 (N.I. 15) as amended by S.R. 1999 No. 89

(2) Article 67 was substituted by regulation 2 of the Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 89)

(3) O.J. No. L175, 5.7.85, p. 40

(4) O.J. No. L73, 14.3.97, p. 5

(5) O.J. No. L156, 25.6.03, p. 17

(6) Article 67A was inserted by regulation 2 of the Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 89)

- (e) the times at which the copy of the environmental statement may be so inspected;
  - (f) an address from which copies of the environmental statement may be obtained and from which further information about the project may be requested during the period specified under sub-paragraph (i);
  - (g) if a charge is to be made for a copy of the environmental statement, the amount of the charge;
  - (h) if the Department uses a website for the publication of information about projects that are subject to the procedure required by this Part, that a copy of the environmental statement or non-technical summary may be inspected on the website during the period specified under sub-paragraph (i);
  - (i) that any person wishing to make any representations about the project and the environmental statement may do so in writing to the Department at a specified address within a specified period, being not less than 6 weeks from the date of publication of the notice; and
  - (j) that the Department will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.
- (3B) The Department shall ensure that during the period specified under sub-paragraph (3A)(i)—
- (a) copies of the environmental statement are available for inspection by any person free of charge at all reasonable hours at the address specified in sub-paragraph (3A)(d);
  - (b) copies of the environmental statement are available to be obtained by any person from the address specified in sub-paragraph (3A)(f); and
  - (c) where under sub-paragraph (3A)(h), the notice states the address of a website, that a copy of the environmental statement or non-technical summary is available for inspection, by any person, on that website.
- (3C) A reasonable charge reflecting the costs of printing, copying and distribution may be made by the Department for the supply of a copy of the environmental statement—
- (a) to a person, other than a consultation body; or
  - (b) to a consultation body to which one copy has already been supplied free of charge.”;
- (d) in paragraph (4), omit “published details of the”;
- (e) in paragraph (7)—
- (i) for sub-paragraph (b) substitute—
    - “(b) any opinion on that statement or the project which is expressed in writing by—
      - (i) any of the consultation bodies; or
      - (ii) any other person;and is received by the Department within any period specified for the purpose;”;
  - (ii) after sub-paragraph (b) insert—

- “(bb) where Article 67B applies, and the EEA State has indicated in accordance with paragraph (4) of that Article that it wishes to participate in the procedure required by this Part, any opinion on that statement or the project which is expressed in writing by—
- (i) the EEA State;
  - (ii) a member of the public in the EEA State; or
  - (iii) an authority having environmental responsibilities designated by the EEA State to be consulted about the project under Article 6(1) of the Directive;
- and is received by the Department within the period specified under sub-paragraph (3A)(i);”;
- (f) in paragraph (8)—
- (i) after the words “paragraph 7”, insert “, and describing the right under Article 67BA(1) to challenge the validity of the decision.”;
  - (ii) at the end of sub-paragraph (b), omit the word “and” and after sub-paragraph (c) add the following—
    - “; and
    - (d) information about the consultation carried out in compliance with this Article and Article 67B, the representations received on consultation, and any changes made as a result of those representations”;
- (g) in paragraph (9), for the words from “shall be” to the end, substitute—
- “shall be—
- (a) in the Belfast Gazette;
  - (b) in at least one local newspaper circulating in the area in which the project for the construction or improvement of the road is proposed to be situated; and
  - (c) if the Department uses a website for the publication of information about projects that are subject to the procedure required by this Part, on that website.”.
- (4) In Article 67B(7) (other Member States)—
- (a) for each reference to “Member State” or “a Member State”, substitute “EEA State” or “an EEA State”, as appropriate;
  - (b) in paragraph (2), for sub-paragraph (c), substitute—
    - “(c) such information about the procedure required by this Part as the Department considers appropriate; and”;
  - (c) in paragraph (4)—
    - (i) for the first occurrence of the words “environmental impact assessment procedure”, substitute “procedure required by this Part”;
    - (ii) omit “and” at the end of sub-paragraph (a); and
    - (iii) for sub-paragraph (b), substitute—
      - “(b) the information required by Article 67A(3A) to be included in the notice under Article 67A(3); and

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(7) Article 67B was inserted by regulation 2 of the Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 89)

- (c) any information about the procedure required by this Part which it considers appropriate to give and which has not already been given to the EEA State.”;
- (d) for paragraph (7) substitute—
  - “(7) Where an EEA State has been consulted in accordance with paragraph (6) the Department must, after deciding whether to proceed with the project to which the environmental statement relates, inform the EEA State of the decision and give it documents containing the matters referred to in section 67A(8).”.
- (5) After Article 67B, insert—

**“Validity of decisions**

**67BA.—**(1) If a person aggrieved by a decision of the Department to proceed with the construction or improvement for which an environmental statement has been made desires to question the validity of the decision on the ground that—

- (a) it is not within the powers of this Order; or
- (b) any requirement of this Part has not been complied with in relation to the decision;

he may, within 6 weeks from the date on which the decision is first published under Article 67A(8), make an application for the purpose to the High Court.

(2) On any such application, the Court—

- (a) may, by interim order, suspend the operation of the decision, or any aspect of it, either generally or insofar as it affects any property of the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the decision is not within the powers of this Order, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Part, may quash the decision, or any aspect of it, either generally or insofar as it affects any property of the applicant.

(3) Subject to paragraph (2), a decision to which paragraph (1) applies shall not be questioned in any legal proceedings whatever.”.