
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 83

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017

PART 4

Procedures on Receipt of Application

Application which appears to require determination as to need for environmental impact assessment

12.—(1) Where it appears to the council or, as the case may be, the Department that an application for planning permission—

- (a) is a Schedule 1 application or a Schedule 2 application;
- (b) the development in question has not been the subject of a screening determination as to whether the development is or is not EIA development; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the council or, as the case may be, the Department shall make a screening determination as to whether the development is EIA development, and paragraphs (7), (8), (9), (10), (11), (14) and (15) of regulation 8 shall apply as if receipt of the application were a request made under paragraph (1) (a) of regulation 8.

(2) Where regulation 8(11) applies by virtue of this regulation, the council or, as the case may be, the Department shall, where necessary to ensure that the applicant has provided the information referred to in regulation 8(3), make a request for additional information before making a screening determination.

Subsequent application where environmental information previously provided

13.—(1) This regulation applies where it appears to the council or, as the case may be, the Department that—

- (a) an application which is before it for determination—
 - (i) is a subsequent application in relation to Schedule 1 development or Schedule 2 development;
 - (ii) has not itself been the subject of a screening determination as to whether the development is or is not EIA development; and
 - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and
- (b) the original application was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations.

(2) Where it appears to the council or, as the case may be, the Department that the environmental information previously submitted in relation to the original application is adequate to assess the significant effects of the development on the environment, it shall take that information into consideration in its decision for subsequent consent.

(3) Where it appears to the council or, as the case may be, the Department that the environmental information already before it is not adequate to assess the significant effects of the development on the environment, it shall serve a notice seeking further information in accordance with regulation 21(1).

Subsequent application where environmental information not previously provided

14.—(1) Where it appears to the council or, as the case may be, the Department that—

(a) an application—

- (i) is a subsequent application in relation to Schedule 1 development or Schedule 2 development;
- (ii) has not itself been the subject of a screening determination as to whether the development is or is not EIA development; and
- (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and

(b) the original application was not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the council or, as the case may be, the Department shall make a screening determination as to whether the development to which the application relates is EIA development, and paragraphs (7), (8), (9), (10), (11), (14) and (15) of regulation 8 shall apply as if receipt of the application were a request made under paragraph (1)(a) of regulation 8.

(2) Where regulation 8(11) applies by virtue of this regulation, the council or, as the case may be, the Department shall, where necessary to ensure that the application has provided the information referred to in regulation 8(6), make a request for additional information before issuing a screening determination.

Application without an environmental statement

15.—(1) Where an EIA application, including an application in respect of development which it has been determined is EIA development under regulation 12 or 14, is not accompanied by an environmental statement or a statement referred to by the applicant as an environmental statement for the purpose of these Regulations, the council or, as the case may be, the Department shall notify the applicant in writing that the submission of such a statement is required.

(2) Where notification is given by the Department under paragraph (1), it shall send a copy of the notification to the council or councils in whose district the proposed development is to be situated.

(3) The council or, as the case may be, the Department shall notify the applicant in accordance with paragraph (1) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant.

(4) An applicant receiving a notification pursuant to paragraph (1) shall, within 4 weeks from the date of the determination, inform the council or, as the case may be, the Department, in writing, that the applicant—

- (a) accepts the determination and proposes to provide an environmental statement; or
- (b) does not accept the determination and proposes to seek a hearing before the Commission.

(5) If the applicant does not inform the council or, as the case may be, the Department in writing in accordance with paragraph (4), the permission or subsequent consent sought shall be deemed to be refused at the end of the relevant 4 week period and a deemed refusal by the council shall not give rise to an appeal to the Commission by virtue of section 58 or 60.

(6) Where, following receipt of a notification pursuant to paragraph (1), an applicant proposes to seek a hearing before the Commission, the applicant shall by notice in writing inform the Commission to such effect within 4 weeks from the date of the notification.

(7) Where the council or, as the case may be, the Department determines or, following a hearing by the Commission, confirms that an environmental statement is required, the statement shall be submitted within 6 months from the date of determination or such extended period as may be agreed in writing between the applicant and the council or Department.

(8) If the applicant does not submit an environmental statement in accordance with paragraph (7), the application for planning permission or subsequent application shall be deemed to be refused and a deemed refusal by the council shall not give rise to an appeal to the Commission by virtue of section 58 or 60.

(9) Where, following a hearing by the Commission, the council or, as the case may be, the Department withdraws its determination that an environmental statement is required, the period within which the application for planning permission or subsequent application is to be determined shall be calculated from the date of notice to the applicant of the council's or Department's withdrawal.

Application referred to the Department under Section 29 without an environmental statement

16.—(1) Where an application has been referred to the Department under section 29 for determination, and it appears to the Department that—

- (a) it is a Schedule 1 application or a Schedule 2 application;
- (b) the development in question—
 - (i) has not been the subject of a determination as to whether the development is or is not EIA development; or
 - (ii) in the case of a subsequent application, was the subject of a determination before planning permission was granted to the effect that it is not EIA development; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the Department shall make a screening determination as to whether the development is EIA development, and paragraphs (7), (8), (9), (10), (11), (14) and (15) of regulation 8 shall apply as if the referral of the application were a request made under paragraph (1)(a) of regulation 8.

(2) Where regulation 8(11) applies by virtue of paragraph (1) the Department shall, where necessary to ensure that the applicant has provided—

- (a) in the case of applications for planning permission, the information referred to in regulation 8(3); and
- (b) in the case of subsequent applications, the information referred to in regulation 8(6),

make a request for additional information before making a screening determination.

(3) Where the Department has determined that an application referred to it under section 29 for determination is an EIA application, but it is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the Department shall notify the applicant in writing that the submission of an environmental statement is required, and

shall send a copy of the notification to the council in whose district the proposed development is to be situated.

(4) The Department shall notify the applicant in accordance with paragraph (3) within 4 weeks from the date of referral of the application or such longer period as may be reasonably required.

(5) An application receiving a notification pursuant to paragraph (3) shall, within 4 weeks from the date of the determination, inform the Department, in writing, that the applicant—

- (a) accepts the determination and proposes to provide an environmental statement; or
- (b) does not accept the determination and proposes to seek a hearing before the Commission.

(6) If the applicant does not inform the Department in writing in accordance with paragraph (5), the permission or subsequent consent sought shall be deemed to be refused at the end of the relevant 4 week period.

(7) Where, following receipt of a notification pursuant to paragraph (3), an applicant proposes to seek a hearing before the Commission, the applicant shall by notice in writing inform the Commission to such effect within 4 weeks from the date of the notification.

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

(9) Where, following a hearing by the Commission, the Department withdraws its determination that an environmental statement is required, the period within which the application for planning permission or subsequent application is to be determined shall be calculated from the date of notice to the applicant of the Department's withdrawal.

Extension of the period for council's or Department's decision on an application for planning permission or subsequent application

17. Where an application for planning permission or subsequent application is an EIA application, Articles 12 and 20 of the General Development Procedure Order shall have effect as if—

- (a) in Article 12 for the reference to a period of 8 weeks from the date the application was received; and
- (b) in paragraph (2)(b) of Article 20 for the reference to a period of 8 weeks from the date the application was received,

there were substituted a reference to a period of 16 weeks; and

- (c) after paragraph (3)(b) of Article 20 there were inserted—

- “(ba) the environmental statement required to be submitted in respect of the application has been submitted, together with the documents required to accompany that statement; and
- (bb) in the case of an application falling within regulation 12(1) or 14(1) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 where the council or, as the case may be, the Department has requested further information in order to make a determination under regulation 12(3) or 14(3) of those Regulations, when that information was received; and
- (bc) where evidence verifying information in the environmental statement has been requested, when that evidence was received; and”;

- (d) the date when an application is received for the purposes of Article 12 were the date when each of the events referred to in Article 20(3) (ba) to (bc) has occurred in relation to that application.