

# Statutory Rule 1999 No. 89

## **Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999**

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### STATUTORY RULES OF NORTHERN IRELAND

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#### **1999 No. 89**

#### **EUROPEAN COMMUNITIES**

#### **ROADS**

#### **Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999**

*Made*

*3rd March 1999*

*Coming into operation*

*14th March 1999*

The Department of the Environment, being a Department designated<sup>[1]</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>[2]</sup> in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred by that section and of all other powers enabling it in that behalf, and having taken into account the selection criteria specified in Annex III to Council Directive 85/337/EEC (on the assessment of the effects of certain public and private projects on the environment)<sup>[3]</sup> as inserted by Council Directive 97/11/EC (amending Council Directive 85/337/EEC)<sup>[4]</sup> hereby makes the following regulations:

#### **Citation and commencement**

**1. - (1) These regulations may be cited as the Roads (Environmental Impact**

**Assessment) Regulations (Northern Ireland) 1999 and shall come into operation on 14th March 1999.**

**(2) The Interpretation Act (Northern Ireland) 1954[5] shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.**

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

**2. For Part V of the Roads (Northern Ireland) Order 1993[6] there shall be substituted the following -**

## **" PART V**

### **Environmental Impact Assessment**

**Environmental impact assessment**

**67. - (1) In this Part -**

**"the Directive" means Council Directive No. 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive No. 97/11/EC;**

**"Annex" means an Annex to the Directive;**

**"relevant project" means a project for constructing or improving a road where the area of the proposed works -**

**(a) exceeds 1 hectare; or**

**(b) is situated in whole or in part in a sensitive area.**

**(2) In paragraph (1) in the definition of "relevant project" -**

**"area of the proposed works" includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation; and**

**"sensitive area" means any of the following -**

**(a) an area of special scientific interest, that is to say, land so declared under Article 24 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985[7];**

**(b) an area of outstanding natural beauty, that is to say, an area so designated under Article 14(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;**

**(c) a National Park, that is to say, an area so designated under Article 12(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;**

**(d) a World Heritage Site[8];**

**(e) a scheduled monument within the meaning of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995[9];**

**(f) a European site within the meaning of regulation 9 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995[10].**

**(3) If the Department is considering a project for constructing or improving a road the Department must, before details of the project are published, determine whether or not the project falls within Annex I or II.**

**(4) If the Department -**

**(a) considers that the project falls within Annex I; or**

**(b) considers that the project is a relevant project falling within Annex II and determines, having regard to the selection criteria contained in Annex III, that the project should be made subject to an environmental impact assessment in accordance with the Directive,**

**it must, not later than the date when details of the project are published, publish an environmental statement.**

**(5) To the extent to which the Department considers -**

**(a) that it is relevant to the specific characteristics of the project and of the environmental features likely to be affected by it; and**

**(b) that the information may reasonably be gathered (having regard among other matters to current knowledge and methods of assessment),**

**the environmental statement must contain the information referred to in Annex IV.**

**(6) That information must include at least -**

**(a) a description of the project (comprising information on the site, design and size of the project);**

**(b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;**

**(c) the data required to identify and assess the main effects which the project is likely to have on the environment;**

**(d) an outline of the main alternatives studied by the Department and an indication of the main reason for its choice (taking into account the environmental effects); and**

**(e) a non-technical summary of the information mentioned in subparagraphs (a) to (d).**

#### **Procedure**

**67A. - (1) The Department must publish any determination made by it as to whether or not a relevant project should be made subject to an environmental impact assessment in accordance with the Directive.**

**(2) Any project for the construction or improvement of a special road which falls within Annex II is to be treated as having characteristics that require it to be made subject to an environmental impact assessment.**

**(3) An environmental statement must be published so as to ensure that members of the public who are likely to be concerned are given a reasonable opportunity to express their opinion before the Department decides whether to proceed with the construction or improvement to which the assessment relates.**

**(4) The Department must ensure that the consultation bodies are given an opportunity to express an opinion on the published details of the project and the environmental statement before the Department decides whether to proceed with the construction or improvement to which the assessment relates.**

**(5) After considering any opinions which have been expressed in relation to the statement the Department shall cause a local inquiry to be held if it appears to the Department to be necessary to do so.**

**(6) Where a local inquiry is held any interested person shall be permitted to appear in person or by a representative and to be heard at the inquiry.**

**(7) Before deciding whether to proceed with the construction or improvement in relation to which an environmental impact assessment has been made, the Department must take into consideration -**

**(a) the environmental statement;**

**(b) any opinion on that statement expressed by a member of the public, by any of the consultation bodies or by any Member State consulted under Article 67B; and**

**(c) where a local inquiry is held, the report of the person who held the inquiry.**

**(8) When the Department has decided whether to proceed with the construction or improvement for which an environmental impact assessment has been made, it must publish its decision together with a statement confirming that it has complied with paragraph (7) and must make available to the public documents containing -**

**(a) the content of the decision and any conditions attached to it;**

**(b) the main reasons and considerations on which the decision is based; and**

**(c) where the decision is to proceed with the construction or improvement, a description of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the project.**

**(9) Publication by the Department in accordance with paragraphs (1), (3) and (8) shall be in the Belfast Gazette and in at least one newspaper circulating in the area in which the project for the construction or improvement of the road is situated.**

**(10) In this Article "the consultation bodies" means -**

**(a) any district council for the area in which the project for the construction or improvement of the road is situated; and**

**(b) other authorities likely to be concerned by the project by reason of their specific environmental responsibilities.**

**Other Member States**

**67B. - (1) This Article applies if -**

**(a) it appears to the Department that a project to which Article 67(4) applies is likely to have a significant effect on the environment in another Member State; or**

**(b) a Member State the environment of which is likely to be significantly affected by such a project asks the Department for information about the project.**

**(2) The Department must give the Member State -**

**(a) a description of the project, together with any information available to the Department which suggests that the project may have a significant effect on the environment in the Member State;**

**(b) any information which the Department has as to the nature of the decision which may be taken on the project;**

**(c) information about the environmental impact assessment procedure (if the Department considers it appropriate); and**

**(d) a reasonable period within which to indicate whether the Member State wishes to participate in that procedure.**

**(3) Paragraph (2)(a) and (b) must be complied with no later than the date of publication referred to in Article 67A(1).**

**(4) If the Member State indicates that it wishes to participate in the environmental impact assessment procedure, the Department must give to the Member State -**

**(a) a copy of the environmental statement for the project (if it has not already done so); and**

**(b) any information about the environmental impact assessment procedure which it considers appropriate to give and which it has not already given to the Member State.**

**(5) The Department must -**

**(a) arrange for the information which it has given to the Member State to be made available, within a reasonable time, to -**

**(i) the authorities referred to in Article 6(1) of the Directive; and**

**(ii) members of the public in the Member State who are likely to be concerned; and**

(b) ensure that those authorities and members of the public who are likely to be concerned are given a reasonable opportunity to give the Department their views before it decides whether to proceed with the project to which the environmental impact assessment relates.

(6) The Department must, in accordance with Article 7(4) of the Directive -

(a) enter into consultations with the Member State concerned regarding, among other matters, the potential significant effects of the project on the environment of that Member State and the measures envisaged to reduce or eliminate those effects; and

(b) agree with that Member State a reasonable period for those consultations.

(7) Where a Member State has been consulted in accordance with paragraph (6) and the Department has decided whether to proceed with the construction or improvement for which an environmental impact assessment has been made it must inform the Member State of the decision and must give it documents containing the matters referred to in Article 67A(8).

#### **Application**

67C. This Part shall not apply to projects where an environmental statement or the details of the project were published before the coming into operation of the Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999."

#### **Consequential amendments**

3. Article 133 of the Roads (Northern Ireland) Order 1993 shall be amended as follows

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(a) for paragraph (2)(a) there shall be substituted the following -

" (a) proceedings required to be taken under Articles 67 to 67B (procedure for environmental impact assessment);";

(b) in paragraph (3) for "Article 67" there shall be substituted "Articles 67 and 67A;"; and

(c) in paragraph (3)(b) for "Article 67(10)" there shall be substituted "Article 67A(8) and (9)".

#### **Revocation**

4. The Roads (Assessment of Environmental Effects) Regulations (Northern Ireland) 1994 are hereby revoked[11].

Sealed with the Official Seal of the Department of the Environment on

***L.S.***

*J. Carlisle*

Assistant Secretary

3rd March 1999.

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EXPLANATORY NOTE

*(This note is not part of the regulations.)*

These regulations implement in Northern Ireland Council Directive 97/11/EC of the 3rd March 1997 (O.J. No. L73, 14.3.97, p. 5) on the assessment of the effects of certain public and private projects on the environment, in respect of those proposals to construct new roads and to improve roads to which the Directive applies. The Directive amends Council Directive 85/337/EEC of the 27th June 1985 (O.J. No. L17, 5.7.85, p. 40) on the same subject.

The regulations further amend Article 67 of the Roads (Northern Ireland) Order 1993. Pursuant to the amendments the Department is required to determine the need to carry out an environmental assessment in respect of projects falling within Annex II of the amended Directive in accordance with a case-by-case examination or thresholds or criteria set by it taking account in any event of the relevant selection criteria set out in Annex III of the amended Directive. It is also required to publish its determination. The Department shall include in its environmental statement an outline of the main alternatives studied by it and an indication of the main reason for its choice, taking into account the environmental effects. It shall publish the environmental statement within a reasonable time to ensure that the public concerned is given an opportunity to express an opinion before it publishes its decision as to whether to initiate the project. The regulations provide for consultation between Member States in cases where the project is likely to have a significant effect on the environment in other Member States.

The regulations make consequential amendments to Article 133 of the Order and revoke the Roads (Assessment of Environmental Effects) Regulations (Northern Ireland) 1994.

Copies of Council Directive 85/337/EEC and 97/11/EC referred to in the regulations may be obtained from the Commission of the European Communities, Windsor House, 9/15 Bedford Street, Belfast BT2 7EG, telephone number (01232) 240708.

A copy of Command Paper 9424 may be obtained from the Stationery Office, 16 Arthur Street, Belfast BT1 4GD, telephone number (01232) 895133.

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*Notes:*

[1] S.I. 1988/785[back](#)

[2] 1972 c. 68[back](#)

[3] O.J. No. L175, 5.7.1985, p. 40[back](#)

[4] O.J. No. L73, 14.3.1997, p. 5[back](#)

[5] 1954 c. 33 (N.I.)[back](#)

[6] S.I. 1993/3160 (N.I. 15) as amended by S.R. 1994 No. 316[back](#)

**[7] S.I. 1985/170 (N.I. 1) as amended by S.I. 1989/492 (N.I. 3)back**

**[8] A World Heritage Site identified under the 1972 UNESCO World Convention. See Command Paper 9424back**

**[9] S.I. 1995/1625 (N.I. 9)back**

**[10] S.R. 1995 No. 380back**

**[11] S.R. 1994 No. 316back**

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