

*Draft Regulations laid before the Assembly under Article 4(1) of the Environment (Northern Ireland) Order 2002, and subject to affirmative resolution of the Assembly*

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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2013 No. 000**

**ENVIRONMENTAL PROTECTION**

**The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013**

*Made - - - - 2013*

*Coming into operation in accordance with regulation 1*

The Department of the Environment, in exercise of the powers conferred by Article 4(1) of the Environment (Northern Ireland) Order 2002<sup>(1)</sup> makes the following Regulations.

In accordance with Article 4(4) of that Order, the Department of the Environment has consulted district councils and such bodies or persons appearing to it to be representative of the interests of district councils as it considers appropriate, such bodies or persons appearing to it to be representative of the interests of industry, agriculture and business as it considers appropriate and such other bodies or persons as it considers appropriate.

**PART 1**

**GENERAL**

**Citation and commencement**

**1.** These Regulations may be cited as the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 and shall, subject to Schedules 3 and 17, come into operation on X XX 2013.

**Interpretation: general**

**2.—(1)** In these Regulations—

“the 2003 Landfill Regulations” means the Landfill Regulations (Northern Ireland) 2003<sup>(2)</sup>;

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(1) S.I. 2002/3153 (N.I. 7)

(2) S.R. 2003 No. 496 as amended by S.R. 2004 No. 297, S.R. 2007 No.179, S.R. 2007 No.258 and S.R.2011 No.101

“baseline report” means, in relation to any particular site, all relevant information on the state of soil and groundwater contamination by relevant hazardous substances and shall include in particular all relevant—

- (a) information on the existing use of the site;
- (b) information on past uses of the site; and
- (c) soil and groundwater measurements based on—
  - (i) previously existing information; and
  - (ii) new information,

if using that information provides an accurate description of the state of the site at the time of the report;

“change in operation” means, in relation to an installation or mobile plant, a change in the nature or functioning or an extension of the installation or mobile plant which may have consequences for the environment;

“chief inspector” means the inspector constituted to be the chief inspector under regulation 8(3);

“coating” means any preparation, including all the organic solvents or preparations containing organic solvents necessary for its proper application, which is used to provide a film with decorative, protective or other functional effect on a surface;

“combustion plant” means any technical apparatus in which fuels are oxidised in order to use the heat thus generated;

“the Department” means the Department of the Environment;

“directly associated activity” means—

- (a) in relation to an activity carried out in a stationary technical unit and falling within any description in sections 1.1 to 6.11 of Part 1 of Schedule 1, any directly associated activity which has a technical connection with the activity carried out in the stationary technical unit and which could have an effect on pollution; and
- (b) in relation to a SED activity, any directly associated activity which has a technical connection with the SED activity carried out on the same site and which could have an effect on any discharge of volatile organic compounds into the environment;

“draft determination” means the proposed decision made by the enforcing authority in relation to an application for, a permit or a permit variation, for a Part A installation or Part A mobile plant. The proposed decision must be advertised and interested parties may make representations which are then considered by the enforcing authority before it makes its final determination, in line with public participation principles.

“emission” means—

- (a) in relation to Part A installations, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land;
- (b) in relation to Part B installations, the direct release of substances or heat from individual or diffuse sources in the installation into the air;
- (c) in relation to Part C installations, the direct release of substances or heat from individual or diffuse sources in the installation into the air;
- (d) in relation to Part A mobile plant, the direct or indirect release of substances, vibrations, heat or noise from the mobile plant into the air, water or land;
- (e) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air;

(f) in relation to Part C mobile plant, the direct release of substances or heat from the mobile plant into the air;

“emission limit value” means the mass, expressed in terms of specific parameters, concentration or level of an emission, which may not be exceeded during one or more periods of time;

“enforcement notice” has the meaning given by regulation 27(1);

“enforcing authority” means, in relation to the exercise of functions under these Regulations, the authority, being either the chief inspector or district council, by whom, under regulation 7, those functions are exercisable;

“environmental inspection” means all actions, including site visits, monitoring of emissions and checks of internal reports and follow-up documents, verification of self-monitoring, checking of the techniques used and adequacy of the environmental management of the installation or mobile plant, undertaken by or on behalf of the competent authority to check and promote compliance of operations with their permit conditions and, where necessary, to monitor their environmental impact;

“environmental quality standard” means the set of requirements which must be fulfilled at a given time by a given environment or particular part thereof, as set out in EU law;

“fuel” means any solid, liquid or gaseous combustible material;

“gas turbine” means any rotating machine which converts thermal energy into mechanical work, consisting mainly of a compressor, a thermal device in which fuel is oxidised in order to heat the working fluid, and a turbine;

“groundwater” means groundwater as defined in point 2 of Article 2 of Directive [2000/60/EC](#)(3) of the European Parliament and of the Council establishing a framework for community action in the field of water policy;

“hazardous substances” means substances or mixtures as defined in Article 3 of Regulation [\(EC\) No 1272/2008](#)(4) of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures;

“hazardous waste” means hazardous waste as defined in point 2 of Article 3 of Directive [2008/98/EC](#)(5) of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives;

“IED” means Directive [2010/75/EU](#)(6) of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (Recast);

“inspector” means a person appointed under regulation 8(1) or (5);

“installation” means a stationary technical unit within which one or more activities listed in Part 1 of Schedule 1 are carried out, and any other directly associated activities on the same site which have a technical connection with the activities listed in that Part and which could have an effect on emissions and pollution;

“landfill” means a landfill to which the 2003 Landfill Regulations apply;

“mixture” means a mixture or solution composed of two or more substances;

“mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise and which is used to carry out one or more activities listed in sections 1.1 to 6.11 of Part 1 of Schedule 1;

“off-site condition” has the meaning given by regulation 13(7);

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(3) O.J.L327,22.12.2000, p.1

(4) O.J.L353,31.12.2008, p.1

(5) O.J. L312, 22.11.2008, p.3

(6) O.J.L334, 17.12.2010, p.17

“organic compound” means any compound containing at least the element carbon and one or more of hydrogen, halogens, oxygen, sulphur, phosphorus, silicon or nitrogen, with the exception of carbon oxides, inorganic carbonates and bicarbonates;

“organic solvent” means any volatile organic compound which is used for any of the following—

- (a) alone or in combination with other agents, and without undergoing a chemical change, to dissolve raw materials, products or waste materials;
- (b) as a cleaning agent to dissolve contaminants;
- (c) as a dissolver;
- (d) as a dispersion medium;
- (e) as a viscosity adjuster;
- (f) as a surface tension adjuster;
- (g) as a plasticiser; or
- (h) as a preservative;

“operator”, subject to paragraph (2), means any natural or legal person who operates or controls in whole or in part the installation or mobile plant;

“Part A installation”, “Part B installation” and “Part C installation” shall be interpreted in accordance with Part 3 of Schedule 1;

“Part A mobile plant”, “Part B mobile plant” and “Part C mobile plant” shall be interpreted in accordance with Part 3 of Schedule 1;

“permit” means a written authorisation granted under regulation 10 to operate all or part of an installation or mobile plant;

“Planning Appeals Commission” means the Planning Appeals Commission established under Article 110 of the Planning (Northern Ireland) Order 1991(7);

“pollution” means the direct or indirect introduction, as a result of human activity, of substances, vibrations, heat or noise into air, water or land which may be harmful to human health or the quality of the environment, result in damage to material property or impair or interfere with amenities and other legitimate uses of the environment;

“poultry” means poultry as defined in point 1 of Article 2 of Council Directive 90/539/EEC(8) of 15 October 1990 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs;

“the public” means one or more natural or legal persons and, in accordance with national law or practice, their associations, organisations or groups;

“the public concerned” means the public affected or likely to be affected by, or having an interest in, the taking of a decision on the granting or the updating of a permit or of permit conditions; for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest;

“reduction scheme” means a reduction scheme which complies with Part 5 of Annex VII of the IED;

“revocation notice” has the meaning given by regulation 24(1);

“SED activity” means any activity falling within section 7 of Part 1 of Schedule 1 and any other activity listed in Schedule 1 to which Chapter V of the IED applies;

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(7) S.I.1991 No.1220 (N.I.11)

(8) O.J.L303, 31.10.1990, p.6

“SED installation” means—

- (a) a stationary technical unit where one or more SED activities are carried out; and
- (b) any other location on the same site where any other directly associated activities are carried out;

“site report” means a report describing the condition of the site of the installation or mobile plant containing the information specified in Schedule 4.

“small SED installation” means a SED installation which falls within the lower threshold band of items 1, 3, 4, 5, 8, 10, 13, 16 or 17 of Part 2 of Annex VII of the IED or, for the other activities of Part 2 of Annex VII, which have a solvent consumption of less than 10 tonnes/year;

“soil” means the top layer of the Earth’s crust, composed of mineral particles, organic matter, water, air and living organisms, situated between the bedrock and the surface;

“specified waste management activity” means any one of the following activities—

- (a) the disposal of waste in a landfill, whether or not the disposal falls within section 5.2 of Part 1 of Schedule 1;
- (b) the disposal or recovery of hazardous waste falling within section 5.3 of that Part of that Schedule;
- (c) the disposal or recovery of non-hazardous waste falling within section 5.4 of that Part of that Schedule;
- (d) the temporary storage of waste falling within section 5.5 of that Part of that Schedule;
- (e) the underground storage of waste falling within section 5.5 of that Part of that Schedule;

“stack” means a structure containing one or more flues providing a passage for waste gases in order to discharge them into the air;

“substance” means any chemical element and its compounds, with the exception of the following substances—

- (a) radioactive substances as defined in Article 1 of Council Directive 96/29/Euratom<sup>(9)</sup> of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation;
- (b) genetically modified micro-organisms as defined in Article 2(b) of Directive 2009/41/EC<sup>(10)</sup> of the European Parliament and of the Council of 6 May 2009 on the contained use of genetically modified micro-organisms;
- (c) genetically modified organisms as defined in Article 2(2) of Directive 2001/18/EC<sup>(11)</sup> of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms;

“substantial change” means a change in the nature or functioning, or an extension, of an installation or mobile plant which, in the opinion of the enforcing authority, may have negative effects on human health or the environment and shall include—

- (a) in relation to a small SED installation which does not fall wholly within the scope of Annex I of the IED, a change of the nominal capacity leading to an increase of emissions of volatile organic compounds of more than 25 per cent;
- (b) in relation to all other SED installations which do not fall within the scope of Annex I of the IED, a change of the nominal capacity leading to an increase of emissions of volatile organic compounds of more than 10 per cent;

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<sup>(9)</sup> O.J.L159, 29.6.1996, p.1

<sup>(10)</sup> O.J.L125, 21.5.2009, p.75

<sup>(11)</sup> O.J.L106, 17.4.2001, p.1

- (c) any change in operation of an installation or mobile plant which in itself meets any of the thresholds specified for a Part A activity under Part 1 of Schedule 1.

“suspension notice” has the meaning given by regulation 28(1);

“variation notice” has the meaning given by regulation 19(5);

“volatile organic compound” or “VOC” means any organic compound as well as the fraction of creosote, having at 293.15 K a vapour pressure of 0.01 kPa or more, or having a corresponding volatility under the particular conditions of use;

“waste” means waste as defined in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste;

“waste incineration plant” means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

“waste co-incineration plant” means any stationary or mobile technical unit whose main purpose is the generation of energy or production of material products and which uses waste as a regular or additional fuel or in which waste is thermally treated for the purpose of disposal through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

“waste incineration installation” means an installation or mobile plant (or part thereof) to which Chapter IV of the IED applies.

- (2) For the purposes of these Regulations—

(a) where an installation or mobile plant has not been put into operation, the person who will have control over the operation of the installation or mobile plant when it is put into operation shall be treated as the operator of the installation or mobile plant;

(b) where an installation or mobile plant has ceased to be in operation, the person who holds the permit which applies to the installation or mobile plant shall be treated as the operator of the installation or mobile plant.

- (3) In these Regulations—

(a) a reference to a release into water includes a release into a sewer (within the meaning of Article 2(2) of the Water and Sewerage Services (Northern Ireland) Order 2006(12));

(b) a reference to a Council Directive is a reference to that Directive together with any amendment made before the date on which these Regulations are made.

- (4) Schedule 1 shall have effect and Part 1 of Schedule 1 shall be interpreted in accordance with the provisions as to interpretation in Parts 1 and 2 of that Schedule.

**Interpretation: “best available techniques” or “BAT”**

3.—(1) For the purpose of these Regulations, “best available techniques” or “BAT” means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole, and for the purpose of this definition—

- (a) “available techniques” means those techniques which have been developed on a scale which allows implementation in the relevant industrial sector, under economically and

technically viable conditions, taking into consideration the cost and advantages, whether or not the techniques are used or produced inside the United Kingdom, as long as they are reasonably accessible to the operator;

- (b) “best” means, in relation to techniques, the most effective in achieving a high general level of protection of the environment as a whole;
- (c) “techniques” includes both the technology used and the way in which the installation or mobile plant is designed, built, maintained, operated and decommissioned.

(2) “BAT reference document” means a document, resulting from the exchange of information organised pursuant to Article 13 of the IED, drawn up for defined activities and describing, in particular, applied techniques, present emissions and consumption levels, techniques considered for the determination of BAT as well as BAT conclusions and any emerging techniques, giving special consideration to the criteria listed in Schedule 2.

(3) “BAT conclusions” means a document containing the parts of a BAT reference document laying down the conclusions on BAT, their description, information to assess their applicability, the emission levels associated with BAT, associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures.

(4) “emission levels associated with BAT” means the range of emission levels obtained under normal operating conditions using a best available technique or a combination of BAT, as described in BAT conclusions, expressed as an average over a given period of time, under specified reference conditions.

(5) “emerging technique” means a novel technique for an industrial activity that, if commercially developed, could provide either a higher general level of protection of the environment or at least the same level of protection of the environment and higher cost savings than existing BAT.

(6) Schedule 2 shall have effect in relation to the determination of BAT.

### **Fit and proper person**

4.—(1) This regulation applies for the purpose of the discharge of any function under these Regulations which requires the chief inspector to determine whether a person is or is not a fit and proper person to carry out a specified waste management activity.

(2) Whether a person is or is not a fit and proper person to carry out a specified waste management activity shall be determined by reference to the fulfilment of the conditions of the permit which apply or will apply to the carrying out of that activity.

(3) Subject to paragraph (4), a person shall be treated as not being a fit and proper person if it appears to the chief inspector that—

- (a) that person or another relevant person has been convicted of a relevant offence;
- (b) that person has not made, or will not before commencement of the specified waste management activity make, adequate financial provision (either by way of financial security or its equivalent) to ensure that—
  - (i) the obligations (including after-care provisions) arising from the permit in relation to that activity are discharged; and
  - (ii) any closure procedures required by the permit in relation to that activity are followed;
- (c) that person and all staff engaged in carrying out that activity will not be provided with adequate professional technical development and training; or
- (d) the management of that activity will not be in the hands of a technically competent person.

(4) The chief inspector may, if he considers it proper to do so in any particular case, treat a person as a fit and proper person notwithstanding that paragraph (3)(a) applies in that person’s case.

- (5) For the purposes of this regulation—
- (a) “relevant offence” means an offence prescribed for the purpose of Article 3(3)(a) of the Waste and Contaminated Land (Northern Ireland) Order 1997(13); and
  - (b) the qualifications and experience required of a person for the purposes of Article 3(3)(b) of the Waste and Contaminated Land (Northern Ireland) Order 1997 which are prescribed under Article 3(5) of that Order shall be treated as the qualifications and experience required of a person for the purposes of paragraph (3)(d).
- (6) In paragraph 3(a), “another relevant person” means, in relation to the holder or proposed holder of a permit—
- (a) any person who has been convicted of a relevant offence committed—
    - (i) by him in the course of his employment by the holder or proposed holder of the permit; or
    - (ii) in the course of the carrying on of any business by a partnership one of the members of which was the holder or proposed holder of the permit;
  - (b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder of the permit was a director, manager, secretary or other similar officer of that body corporate; or
  - (c) where the holder or proposed holder of the permit is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate and who—
    - (i) has been convicted of a relevant offence; or
    - (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a relevant offence of which that other body corporate has been convicted, was committed.

### **Application to the Crown**

5.—(1) Subject to the provisions of this regulation, these Regulations and the 2003 Landfill Regulations bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) No contravention by the Crown of any provision of these Regulations or the 2003 Landfill Regulations shall make the Crown criminally liable under regulation 36 of these Regulations or under regulation 17 of the 2003 Landfill Regulations and no proceedings may be taken against the Crown under regulation 37 of these Regulations but the High Court may, on the application of the enforcing authority charged with enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), the provisions of these Regulations and the 2003 Landfill Regulations shall apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any specified powers of entry exercisable under regulation 30, that it is requisite or expedient that, in the interests of national security, the powers of entry should not be exercisable in relation to the premises, those powers shall not be exercisable in relation to those premises; and in this paragraph “specified” means specified in the certificate and “Crown premises” means premises held or used by or on behalf of the Crown.

(5) Any reference to the Crown in this regulation includes the Crown in right of Her Majesty’s Government in the United Kingdom.



## **Applications**

6.—(1) An enforcing authority may require any application or type of application made to it under any provision of these Regulations to be made on a form made available by the enforcing authority.

(2) A form made available by an enforcing authority under paragraph (1) shall specify the information required by the enforcing authority to determine the application, which shall include any information required to be contained in the application by the provision of these Regulations under which the application is made.

(3) Any application made under these Regulations may, with the agreement of the enforcing authority, be sent to the enforcing authority electronically.

(4) Where an application which is required to be accompanied by a fee, map or plan is sent electronically, the fee, map or plan may be sent to the enforcing authority separately from the application but the application shall not be treated as having been received by the enforcing authority until the fee, map or plan has also been received.

(5) An application made under these Regulations may be withdrawn at any time before it is determined.

## **Discharge and scope of functions**

7.—(1) This regulation determines the authority by whom the functions conferred or imposed by these Regulations on an enforcing authority are exercisable and the purposes for which they are exercisable.

(2) Those functions, in their application to a Part A installation or Part A mobile plant, shall be functions of the chief inspector and shall be exercisable for the purpose of achieving a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land.

(3) Those functions, in their application to a Part B installation or Part B mobile plant, shall be functions of the chief inspector and, subject to paragraph (5), shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(4) Those functions, in their application to a Part C installation, shall be functions of the district council in whose district the installation is (or will be) situated and, subject to paragraph (5), shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(5) The functions conferred or imposed by these Regulations in relation to a SED installation shall be exercisable for the purpose of preventing or reducing emissions of volatile organic compounds into air, soil and water as well as preventing the inclusion or reducing the amount of solvents contained in any product.

(6) Those functions, in their application to a Part C mobile plant, shall be functions of—

- (a) where the operator of the mobile plant has their principal place of business in Northern Ireland, the district council in whose district that place of business is;
- (b) where the operator of the mobile plant has their principal place of business outside of Northern Ireland and the mobile plant is not covered by a permit, the district council in whose district the plant is first operated or, where the plant has not been operated in Northern Ireland, the district council in whose district it is intended by the operator that the plant should first be operated;
- (c) where the operator has their principal place of business outside of Northern Ireland and the mobile plant is covered by a permit, the district council which granted the permit,

and shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(7) The Department may, as respects functions under these Regulations exercisable by a district council specified in a direction, direct that those functions shall be exercised instead by the chief inspector while the direction remains in force or during such period as may be specified in the direction.

(8) A transfer of functions under paragraph (7) to the chief inspector relating to Part C installations or Part C mobile plant does not make them exercisable by the chief inspector for any other purpose than that mentioned in paragraphs (4), (5) and (6).

(9) The Department may, as respects functions under these Regulations exercisable by the chief inspector in respect of Part B installations specified in a direction, direct that those functions shall be exercised instead by a district council while the direction remains in force or during such period as may be specified in the direction.

(10) A direction under paragraph (7) may transfer functions exercisable by a district council in relation to all or certain types of installations or mobile plant (a “general direction”) or in relation to a specific installation or mobile plant specified in the direction (a “specific direction”) but a direction under paragraph (9) may only be a specific direction.

(11) A direction under paragraph (7) or (9) may include such saving and transitional provisions as the Department considers necessary or expedient.

(12) The Department, on giving or withdrawing a general direction under paragraph (7), shall—

- (a) serve notice of it on the chief inspector and on the district councils affected by the direction; and
- (b) cause notice of it to be published as soon as practicable in the Belfast Gazette and in at least two newspapers circulating in the district of each district council affected by the direction, and any such notice shall specify the date on which the direction is to take (or took) effect and (where appropriate) its duration.

(13) The Department, on giving or withdrawing a specific direction under paragraph (7) or (9), shall—

- (a) serve notice on the chief inspector, the district council and the operator or the person appearing to the Department to be the operator of the installation or mobile plant affected; and
- (b) cause notice of it to be published in the Belfast Gazette and in at least two newspapers circulating in the district council’s district,

and any such notice shall specify the date on which the direction is to take (or took) effect and (where appropriate) its duration.

(14) The requirements of paragraph (12)(b) or paragraph (13)(b) shall not apply in any case where, in the opinion of the Secretary of State, the publication of the notice in accordance with that sub-paragraph would be contrary to the interests of national security.

(15) It shall be the duty of the chief inspector to follow developments in BAT, and the publication of any new or updated BAT conclusions and he shall make that information available to the public concerned.

(16) The chief inspector shall have regard to any guidance established by the European Commission which assists in encouraging the development and application of emerging techniques.

(17) Schedules 8 to 13 shall have effect.

### **Appointment of chief inspector and other inspectors**

**8.—**(1) The Department may appoint as inspectors (under whatever title the Department may determine) such persons having such suitable qualifications as the Department thinks necessary

for carrying these Regulations into effect, and may terminate any appointment made under this paragraph.

(2) The Department may make to, or in respect of, any person so appointed such payments by way of remuneration, allowances or otherwise as the Department may determine.

(3) The Department shall constitute one of the inspectors appointed under paragraph (1) to be the chief inspector.

(4) The functions conferred or imposed by or under these Regulations on the chief inspector as the enforcing authority may, to any extent, be delegated by him to any other inspector appointed under paragraph (1).

(5) A district council may appoint as inspectors (under whatever title the council may determine) such persons having suitable qualifications as the council thinks necessary for carrying these Regulations into effect in the council's district, and may terminate any appointment made under this paragraph.

(6) An inspector shall not be liable in any civil or criminal proceedings for anything done in the performance of their functions under Part 3 if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

## PART 2

### PERMITS

#### **Permits: requirement for a permit**

9.—(1) No person shall operate an installation or mobile plant after the prescribed date except under and to the extent authorised by a permit granted by the enforcing authority.

(2) In paragraph (1), the “prescribed date” means the appropriate date set out in or determined in accordance with Schedule 3.

#### **Permits: general provisions**

10.—(1) An application for a permit to operate an installation or mobile plant shall be made to the enforcing authority in accordance with Part 1 of Schedule 4 and shall be accompanied by any fee prescribed in respect of the application under regulation 25.

(2) Subject to paragraphs (3) and (4), where an application is duly made to the enforcing authority, the enforcing authority shall either grant the permit, subject to any conditions which may be imposed pursuant to regulations 11, 12, 13, 14 or 15 of these Regulations, and regulation 8 of the 2003 Landfill Regulations, or refuse the permit.

(3) A permit shall not be granted if the enforcing authority considers that the applicant will not be the person who will have control over the operation of the installation or mobile plant concerned after the grant of the permit, or will not ensure that the installation or mobile plant is operated so as to comply with any conditions which would be included in the permit.

(4) In the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation or by means of mobile plant, the permit shall not be granted unless—

- (a) the chief inspector is satisfied that the applicant is a fit and proper person to carry out that activity; and

- (b) in the case of an installation where the use of the application site for the carrying out of the activity requires planning permission granted under the Planning (Northern Ireland) Order 1991—
  - (i) such planning permission is in force in relation to the use of the land; or
  - (ii) a certificate under Article 83A of that Order has been issued in respect of that use of the land.

(5) A permit may authorise the operation of—

- (a) more than one Part A installation or Part A mobile plant on the same site operated by the same operator;
- (b) more than one Part B installation on the same site operated by the same operator;
- (c) more than one Part B mobile plant operated by the same operator;
- (d) more than one Part C installation on the same site operated by the same operator; or
- (e) more than one Part C mobile plant operated by the same operator,

but may not otherwise authorise the operation of more than one installation or mobile plant.

(6) A permit authorising the operation of a Part A mobile plant may only authorise the operation of that plant on a site specified in the permit and only one site may be specified in each such permit (accordingly, the operation of the plant on a different site shall require a distinct permit).

(7) A permit authorising the operation of an installation or Part A mobile plant shall include a map or plan showing the site of the installation or mobile plant covered by the permit and, in the case of an installation, the location of the installation on that site.

(8) A permit shall be transferred only in accordance with regulation 20 or 21 and shall cease to have effect only in accordance with regulation 21, 22, 23, 24 or paragraph (9).

(9) Where—

- (a) the conditions of a permit have been varied under regulation 19 or affected by a partial transfer, surrender or revocation under regulations 20 to 24; or
- (b) there is more than one permit applying to installations on the same site operated by the same operator or to mobile plant operated by the same operator,

the enforcing authority may replace the permit or permits with a consolidated permit applying to the same installations or mobile plant and subject to the same conditions as the permit or permits being replaced.

(10) Parts 1 and 2 of Schedule 4 shall have effect subject to Part 3 of that Schedule.

### **Conditions of permits: general principles**

**11.**—(1) When determining the conditions of a permit, the enforcing authority shall take account of the general principles set out in paragraph (2) and, in the case of a permit authorising the operation of a Part A installation or Part A mobile plant, the additional general principles set out in paragraph (3).

(2) The general principles referred to in paragraph (1) are that installations and mobile plant must be operated in such a way that—

- (a) all the appropriate preventative measures are taken against pollution, in particular through the application of BAT; and
- (b) no significant pollution is caused.

(3) The additional general principles referred to in paragraph (1) in relation to a permit authorising the operation of a Part A installation or a Part A mobile plant are that the installation or mobile plant must be operated in such a way that—

- (a) BAT conclusions shall be the reference for setting permit conditions;
- (b) waste production is avoided in accordance with Directive 2008/98/EC of the European Parliament and of the Council on waste; and, where waste is produced, it is in order of priority and in accordance with Directive 2008/98/EC, prepared for re-use, recycled, recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any adverse impact on the environment;
- (c) energy is used efficiently;
- (d) the necessary measures are taken to prevent accidents and limit their consequences; and
- (e) upon the definitive cessation of activities, the necessary assessments and measures are taken to avoid any pollution risk and to return the site of the installation or mobile plant to a satisfactory state.

(4) The Department may establish rules under which the chief inspector may set stricter permit conditions than those achievable by the use of BAT as described in the BAT conclusions (in addition to the circumstances described in regulation 12(4)).

(5) Where the chief inspector sets permit conditions on the basis of a BAT, not described in any of the relevant BAT conclusions, the chief inspector shall ensure that—

- (a) that technique is determined by giving special consideration to the criteria listed in Schedule 2; and
- (b) the requirements of regulations 12(3) and 13(2) to (4) are complied with.

(6) Where the relevant BAT conclusions do not contain emission levels associated with the BAT, the chief inspector shall ensure that the technique referred to in paragraph (5) ensures a level of environmental protection equivalent to the BAT described in the BAT conclusions.

(7) Where an activity or a type of production process carried out within an installation is not covered by any BAT conclusions, or where those conclusions do not address all the potential environmental effects of the activity or process, the chief inspector shall, after prior consultations with the operator, set the permit conditions on the basis of the BAT that he has determined for the activities or processes concerned, by giving special consideration to the criteria listed in Schedule 2.

(8) The monitoring requirements referred to in regulation 13(6)(e) and (f) shall, where applicable, be based on the conclusions on monitoring as described in the BAT conclusions.

### **Conditions of permits: specific conditions for all installations and mobile plant**

12.—(1) Subject to paragraphs (11) and (12) and regulations 15 and 16, there shall be included in all permits such conditions as the enforcing authority considers appropriate to ensure compliance with paragraphs (2) to (7).

(2) Subject to paragraph (6), a permit shall include emission limit values for pollutants, in particular those listed in Schedule 5, likely to be emitted from the installation or mobile plant in significant quantities, having regard to their nature and, in the case of emissions from a Part A installation or a Part A mobile plant, their potential to transfer pollution from one environmental medium to another.

(3) The emission limit values required by paragraph (2)—

- (a) may, where appropriate, apply to groups of pollutants rather than to individual pollutants; and
- (b) shall normally apply at the point at which the emissions leave the installation or mobile plant, any dilution being disregarded when determining those values.

(4) Where an environmental quality standard requires stricter emission limit values than those that would be required from the application of BAT, the enforcing authority shall require that those stricter emission limit values are imposed.

(5) The emission limit values required by paragraph (2) may, where appropriate, be supplemented or replaced by equivalent parameters or technical measures ensuring an equivalent level of environmental protection.

(6) Where emissions of a pollutant from an installation are the subject of conditions imposed pursuant to regulation 10(2) and (3) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005<sup>(14)</sup>, the permit shall not include an emission limit value, equivalent parameter or technical measure for those emissions unless the enforcing authority considers that the value, parameter or measure is necessary to ensure that no significant local pollution is caused.

(7) For activities listed in Annex I to Directive 2003/87/EC<sup>(15)</sup>, the competent authority may choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.

(8) Paragraphs (6) and (7) shall not apply where the relevant installation is an excluded installation for the purposes of regulation 11 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005.

(9) Subject to paragraph (10), there is implied in every permit a condition that, in operating the installation or mobile plant, the operator shall use BAT for preventing or, where that is not practicable, reducing emissions from the installation or mobile plant.

(10) The obligation implied by virtue of paragraph (9) shall not apply in relation to any aspect of the operation of the installation or mobile plant in question which is regulated by a condition imposed under any other paragraph of this regulation.

(11) A permit may, without prejudice to the generality of the previous provisions of this regulation, include conditions—

- (a) imposing limits on the amount or composition of any substance produced or utilised during the operation of the installation or mobile plant in any period;
- (b) which are supplemental or incidental to other conditions contained in the permit.

(12) The Department may give directions to enforcing authorities—

- (a) as to the specific conditions which are, or are not, to be included in all permits, in permits of a specified description or in any particular permit;
- (b) as to the objectives which are to be achieved by conditions included in such permits,

and the enforcing authorities shall include in such permits such conditions as are specified or required to comply with such directions.

(13) The enforcing authority may rely on arrangements referred to in, and sanctioned by, guidance issued by the Department under regulation 41 to secure a particular result, as an alternative to including a condition in the permit pursuant to this regulation or regulation 8 (conditions to be included in landfill permits) of the 2003 Landfill Regulations.

### **Conditions of permits: specific conditions for Part A installations and Part A mobile plant**

**13.—**(1) The chief inspector shall include in all permits authorising any Part A installation or Part A mobile plant such other conditions as appear to the chief inspector to be appropriate, when taken together with the condition implied by regulation 12(8), for the purpose of ensuring a high level of protection for the environment as a whole, taking into account, in particular, the general principles set out in regulation 11.

(2) Without prejudice to regulation 12(4), the emission limit values referred to in regulation 12(2) and the equivalent parameters and technical measures referred to in regulation 12(5) shall be based on

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<sup>(14)</sup> S.I. 2005/925

<sup>(15)</sup> O.J. L275, 25.10.2003,p.32

BAT, without prescribing the use of any technique or specific technology. When setting the emission limit values the chief inspector—

- (a) shall ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with BAT as laid down in the BAT conclusions through either—
    - (i) setting emission limit values that do not exceed the emission levels associated with BAT. Those emission limit values shall be expressed for the same or shorter periods of time and under the same reference conditions as those emission levels associated with BAT; or
    - (ii) setting different emission limit values than those referred to under sub-paragraph (a) in terms of values, periods of time and reference conditions, and at least annually, assessing the results of emission monitoring in order to ensure that emissions under normal operating conditions have not exceeded the emission levels associated with BAT; and
  - (b) may take into account the effect of a waste water treatment plant when determining the emission limit values applying in relation to indirect releases into water from a Part A installation or Part A mobile plant provided that an equivalent level of protection of the environment as a whole is maintained and that taking such treatment into account does not lead to higher levels of pollution.
- (3) By way of derogation from paragraph (2), but without prejudice to regulation 12(4), the chief inspector may, in specific cases, set less strict emission limit values. In such cases—
- (a) an assessment must show that the achievement of emission levels associated with BAT as described in BAT conclusions would lead to disproportionately higher costs compared to the environmental benefits due to—
    - (i) the geographical location or the local environmental conditions of the installation concerned; or
    - (ii) the technical characteristics of the installation concerned;
  - (b) the chief inspector shall document in an annex to the permit conditions the reasons for the application of sub-paragraph (a) including the result of the assessment and the justification for the conditions imposed;
  - (c) the emission limit values set in accordance with sub-paragraph (a) shall, however, not exceed the emission limit values set out in Annexes V and VI to the IED, where applicable; and
  - (d) the chief inspector shall re-assess the application of sub-paragraph (a) as part of each review of the permit conditions pursuant to regulation 17.
- (4) The chief inspector may grant temporary derogations from the requirements of regulation 11(2)(a) and paragraph (2) of this regulation for the testing and use of emerging techniques for a total period of time not exceeding nine months, provided that after the period specified, either the technique is stopped or the activity achieves at least the emission levels associated with BAT.
- (5) The chief inspector shall include conditions—
- (a) requiring the operator to inform the enforcing authority, immediately, of any incident or accident which causes or may cause significant pollution and to immediately take all appropriate measures to limit the environmental consequences and to prevent further possible incidents or accidents; and
  - (b) in the event of a breach of any permit condition, requiring the operator to—
    - (i) inform the regulator;
    - (ii) take the measures necessary to ensure that compliance is restored within the shortest possible time; and

- (c) in the event of a breach of a permit condition which poses an immediate danger to human health or threatens to cause an immediate significant adverse effect on the environment, immediately suspend the operation of the installation or mobile plant or the relevant part of it until compliance with the permit conditions has been restored.
- (6) The chief inspector shall also include conditions—
- (a) aimed at minimising long distance and transboundary pollution;
  - (b) ensuring appropriate protection of the soil and groundwater and appropriate management of waste generated by the installation or mobile plant, including appropriate requirements for the regular maintenance and surveillance of measures taken to prevent emissions to soil and groundwater and appropriate requirements concerning the periodic monitoring of soil and groundwater in relation to relevant hazardous substances likely to be found at the site and having regard to the possibility of soil and groundwater contamination at the site of the installation. Periodic monitoring shall be carried out at least once every five years for groundwater and ten years for soil, unless such monitoring is based on a systematic appraisal of the risk of contamination;
  - (c) relating to the periods when the installation or mobile plant is not operating normally and there is a risk that the environment may be adversely affected during such periods, including, in particular, conditions relating to the start up of operations, leaks, malfunctions and momentary stoppages;
  - (d) setting out the steps to be taken prior to the operation of the installation or mobile plant and after the definitive cessation of operations;
  - (e) setting out suitable emission monitoring requirements, specifying the measurement methodology, frequency and the evaluation procedure, ensuring that the operator supplies the chief inspector with the data required to check compliance with the permit and where emission limit values are set in accordance with paragraph (2)(a)(ii), requiring that the results of emission monitoring are available for the same periods of time and reference conditions as for the emission levels associated with BAT; and
  - (f) requiring the operator to supply the chief inspector regularly and at least annually with the results of the monitoring of emissions, the basis of those results and other specified data that enables the chief inspector to verify compliance with the permit conditions and, where emission limit values are set in accordance with paragraph (2)(a)(ii), requiring that a written summary of the results is supplied which allows a comparison with the emission levels associated with BAT.
- (7) A permit authorising the operation of a Part A installation or Part A mobile plant may include a condition (an “off-site condition”) requiring the operator to carry out works or do other things in relation to land not forming part of the site of the installation or mobile plant notwithstanding that he is not entitled to carry out the works or do the things, and any person whose consent would be required shall grant, or join in granting, the operator such rights in relation to that land as will enable the operator to comply with any requirements imposed on him by the permit.
- (8) Schedule 6 shall have effect in relation to compensation where rights are granted pursuant to paragraph (7).
- (9) A permit which authorises any activity relating to waste oils shall contain conditions ensuring that, so far as technically feasible and economically viable—
- (a) waste oils having different characteristics are not mixed; and
  - (b) waste oils are not mixed with other kinds of waste or substances, if such mixing would impede their treatment.
- (10) In paragraph (9), “waste oils” and “treatment” have the same meanings as in Directive [2008/98/EC](#).



### **Conditions of permits: specific conditions for Part B and C installations and mobile plant**

14.—(1) The enforcing authority shall include in all permits authorising any Part B or Part C installation or Part B or Part C mobile plant, such other conditions as appear to the enforcing authority to be appropriate, when taken together with the condition implied by regulation 12(8), for the purpose of preventing or, where that is not practicable, reducing emissions into the air, taking into account, in particular, the general principles set out in regulation 11(2).

(2) Subject to regulation 12(4), in the case of Part B or Part C installations and Part B or Part C mobile plant, the emission limit values required by regulation 12(2) shall be based on BAT for the description of installation or mobile plant concerned but shall take account of the technical characteristics of the particular installation or mobile plant being permitted and, in the case of an installation, its geographical location and the local environmental conditions.

(3) Where a Part B or Part C mobile plant authorised by a permit is used to carry out an activity on the site of an installation which is authorised by a separate permit then, if different requirements are imposed in the permits in respect of the carrying out of the activity, the requirements in the permit authorising the operation of the installation shall prevail in the event of any inconsistency.

### **Conditions of permits: Department's notice in relation to emissions into water**

15.—(1) In the case of a Part A installation or Part A mobile plant the Department may, at any time, give notice to the chief inspector specifying the emission limit values or conditions (not containing emission limit values) which it considers are appropriate in relation to preventing or reducing emissions into water.

(2) Where a notice under paragraph (1) specifies emission limit values, the emission limit values required by regulation 12(2), in relation to emissions into water from the installation or mobile plant concerned, shall be those specified in that notice or such stricter emission limit values as may be determined by the chief inspector in accordance with the application of BAT or required by regulation 12(4).

(3) Where a notice under paragraph (1) specifies conditions in relation to emissions into water from an installation or mobile plant, the permit authorising the operation of that installation or mobile plant shall include those conditions or any more onerous conditions dealing with the same matters as the chief inspector considers are appropriate.

### **General binding rules**

16.—(1) The Department may make rules (“general binding rules”) containing requirements applying to certain types of installation or mobile plant.

(2) The Department shall only make general binding rules under this regulation applying to Part A installations or Part A mobile plant, if it is satisfied that the operation of such installations or mobile plant under the rules will result in the same high level of environmental protection and integrated prevention and control of pollution, as would result from the operation of the installations or mobile plant under the conditions that would be included in the permits for those installations or mobile plant, pursuant to regulations 12 and 13 if the rules did not apply.

(3) In the case of a Part A installation or Part A mobile plant, general binding rules shall be based on BAT, without prescribing the use of any technique or specific technology, in order to ensure compliance with Articles 14 and 15 of the IED.

(4) The Department shall ensure that general binding rules applying to Part A installations or Part A mobile plant are updated to take into account any developments in BAT and in order to ensure compliance with Article 21 of the IED.

(5) Where the Department makes general binding rules an enforcing authority may, at the request of the operator, include, in a permit authorising the operation of an installation or mobile

plant covered by the rules, a condition (a “general binding rules condition”) providing that the aspects of the operation of the installation or mobile plant covered by the requirements in the rules shall be subject to those requirements instead of to conditions included in the permit pursuant to regulations 12 to 14.

(6) Where a permit includes a general binding rules condition the requirements in the general binding rules shall be treated as if they were conditions of the permit for the purpose of regulations 26, 27 and 36(1)(b).

(7) The Department may vary general binding rules by means of a notice of variation specifying the variations and the date on which the variations are to take effect, which shall not be less than 3 months after the date on which notice of the variation is given in the Belfast Gazette pursuant to paragraph (11)(c).

(8) The Department may revoke general binding rules by means of a notice of revocation.

(9) Where aspects of the operation of an installation or mobile plant are covered by the requirements in general binding rules which are revoked, the enforcing authority shall vary the permit authorising the operation of the installation or mobile plant under regulation 19, to delete the general binding rules condition and to insert the conditions that will be required by regulations 11 to 14 when the requirements in the general binding rules no longer apply.

(10) Where the Department revokes general binding rules, the requirements in the general binding rules shall continue to be treated under paragraph (6) as if they were conditions of a permit until the variations of the permit required by paragraph (9) take effect.

(11) Where the Department makes, varies or revokes general binding rules it shall—

- (a) serve a copy of the rules, notice of variation or notice of revocation on the chief inspector and all district councils;
- (b) publish the rules, notice of variation or notice of revocation in such manner as it considers appropriate for the purpose of bringing the rules or notice to the attention of operators likely to be affected by them and, in the case of Part A installations or Part A mobile plant, the rules shall contain a reference to the IED; and
- (c) give notice of the making, variation or revocation of the rules in the Belfast Gazette.

### **Review of conditions of permits**

17.—(1) Enforcing authorities shall periodically review the conditions of permits and may do so at any time.

(2) Without prejudice to paragraph (1), a review of a permit under this regulation shall be carried out where—

- (a) the pollution caused by the installation or mobile plant covered by the permit is of such significance that the existing emission limit values of the permit need to be revised or new emission limit values need to be included in the permit;
- (b) substantial changes in BAT make it possible to reduce emissions from the installation or mobile plant significantly without imposing excessive costs;
- (c) the operational safety of the activities carried out in the installation or mobile plant requires other techniques to be used; or
- (d) it is necessary to comply with a new or revised environmental quality standard.

(3) In relation to Part A installations and Part A mobile plant, at the request of the chief inspector, the operator shall submit all the information necessary for the purpose of reconsidering the permit conditions, including, in particular, results of emission monitoring and other data, that enables a comparison of the operation of the installation or mobile plant with the BAT described in the applicable BAT conclusions and with the emission levels associated with BAT.

(4) When reconsidering permit conditions for Part A installations or Part A mobile plant, the chief inspector shall—

- (a) use any information resulting from monitoring or inspections;
- (b) within four years of publication of decisions on BAT conclusions relating to the main activity of an installation or mobile plant, ensure that all the permit conditions for the installation or mobile plant concerned are considered and, if necessary, updated to ensure compliance with the IED; and
- (c) take into account all the new or updated BAT conclusions, applicable to the installation or mobile plant, since the permit was granted or last reconsidered.

### **Proposed change in the operation of an installation or mobile plant**

**18.**—(1) Subject to paragraph (4), where an operator of an installation or mobile plant which is permitted under these Regulations proposes to make a change in the operation of that installation or mobile plant the operator shall, at least 14 days before making the change, notify the enforcing authority.

(2) A notification under paragraph (1) shall be in writing and shall contain a description of the proposed change in the operation of the installation or mobile plant.

(3) An enforcing authority shall, by notice in writing served on the operator, acknowledge receipt of any notification received under paragraph (1).

(4) Paragraph (1) shall not apply where the operator applies under regulation 19(2) for the variation of the conditions of his permit before making the proposed change and the application contains a description of the change.

### **Variation of conditions of permits**

**19.**—(1) The enforcing authority may at any time vary the conditions of a permit and shall do so if it appears to the enforcing authority at that time, whether as a result of a review under regulation 17, a notification under regulation 15 or regulation 18 or otherwise, that regulations 11, 12, 13 and 14 of these Regulations or regulation 8 of the 2003 Landfill Regulations require conditions to be included which are different from the subsisting conditions.

(2) An operator of an installation or mobile plant which is permitted under these Regulations may apply to the enforcing authority for the variation of the conditions of his permit.

(3) An application under paragraph (2) shall be made in accordance with Part 1 of Schedule 7 and shall be accompanied by any fee prescribed in respect of the application in accordance with regulation 25; and Schedule 7 shall have effect with respect to such applications.

(4) Where an application is duly made to the enforcing authority under paragraph (2), the enforcing authority shall determine, in accordance with regulations 11, 12, 13, 14 and 17 of these Regulations or regulation 8 of the 2003 Landfill Regulations, whether to vary the conditions of the permit.

(5) Where the enforcing authority decides to vary the conditions of the permit, whether on an application under paragraph (2) or otherwise, it shall serve a notice in writing on the operator (a “variation notice”) specifying the variations of the conditions of the permit and the date or dates on which the variations are to take effect and, unless the notice is withdrawn, the variations specified in the notice shall take effect on the date or dates so specified.

(6) A variation notice served under paragraph (5) shall, unless served for the purpose of determining an application under paragraph (2), require the operator to pay, within such period as may be specified in the notice, any fee prescribed in respect of the variation notice in accordance with regulation 25.

(7) Where the enforcing authority decides on an application under paragraph (2) not to vary the conditions of the permit, it shall give notice of its decision to the operator in writing.

(8) Parts 1, 2 and 3 of Schedule 7 shall have effect subject to Part 4 of that Schedule.

(9) This regulation and Schedule 7 apply to the variation of any provision other than a condition which is contained in a permit as they apply to the variation of a condition.

### **Transfer of permits**

**20.**—(1) Where the operator of an installation or mobile plant wishes to transfer their permit, in whole or in part, to another person (“the proposed transferee”) the operator and the proposed transferee shall jointly make an application to the enforcing authority to effect the transfer.

(2) An application under paragraph (1) shall be accompanied by the permit and any fee prescribed in respect of the transfer under regulation 25 and shall contain—

- (a) the operator’s and the proposed transferee’s telephone number and address and, if different, any address to which correspondence relating to the application should be sent; and
- (b) in the case of an application to effect the transfer of a permit or part of a permit that authorises the carrying out of a specified waste management activity, any information which the applicants wish the chief inspector to take into account when considering whether the transferee is a fit and proper person to carry out that activity.

(3) Where the operator wishes to retain part of their permit (a “partial transfer”), an application under paragraph (1) shall—

- (a) identify the installation or mobile plant to which the transfer applies (the “transferred unit”); and
- (b) where the transfer applies to the operation of an installation or Part A mobile plant, contain a map or plan identifying the part of the site used for the operation of that installation or mobile plant (the “identified part of the site”).

(4) Subject to paragraph (5), the enforcing authority shall effect the transfer unless it considers that the proposed transferee will not be the person who will have control over the operation of the installation or mobile plant covered by the transfer after the transfer is effected or will not ensure compliance with the conditions of the transferred permit.

(5) In the case of an application to effect the transfer of a permit or part of a permit which authorises the carrying out of a specified waste management activity, the chief inspector shall only effect the transfer if the chief inspector is satisfied that the proposed transferee is a fit and proper person to carry out that activity.

(6) The enforcing authority shall effect a transfer under this regulation by—

- (a) in the case of a partial transfer—
  - (i) issuing a new permit, to the proposed transferee for that part of the installation or mobile plant to which the transfer relates; and
  - (ii) returning the original permit to the operator, endorsed to record the transfer in respect of the transfer and any variation of the permit conditions; or
- (b) in the case of a transfer of the whole permit, causing the permit to be endorsed with the name and other particulars of the proposed transferee as the operator of the installation or mobile plant concerned,

and the transfer shall take effect from such date as may be agreed with the applicants and specified in the endorsement and, in the case of a partial transfer, the new permit.

(7) In the case of a partial transfer effected under this regulation, the conditions included in the new permit and original permit after the transfer shall be the same as the conditions included in the

original permit immediately before the transfer in so far as they are relevant to any installation, site and mobile plant covered by the new permit or the original permit, but subject to such variations as, in the opinion of the enforcing authority, are necessary to take account of the transfer.

(8) If within the period of two months beginning with the date on which the enforcing authority receives an application under paragraph (1), or within such longer period as the enforcing authority and the applicants may agree in writing, the enforcing authority has neither effected the transfer nor given notice in writing to the applicants that it has rejected the application, the application shall, if the applicants notify the enforcing authority in writing that they treat the failure as such, be deemed to have been refused at the end of that period or that longer period.

(9) The enforcing authority may, by notice in writing, require the operator or the proposed transferee to furnish such further information specified in the notice, within the period so specified, as the enforcing authority may require for the purpose of determining an application under this regulation.

(10) Where a notice is served on an operator or proposed transferee under paragraph (9)—

- (a) for the purpose of calculating the period of two months specified in paragraph (8), no account shall be taken of the period beginning with the date on which notice is served and ending on the date on which the information specified in the notice is furnished; and
- (b) if the specified information is not furnished within the period specified, the application shall, if the enforcing authority gives notice in writing to the operator and proposed transferee that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

### **Death of a permit holder**

**21.**—(1) This regulation applies if—

- (a) a permit is held by an individual (A); and
- (b) A dies.

(2) On the death of A, the permit—

- (a) shall be property forming part of A's personal estate; and
- (b) shall continue to have effect subject to—
  - (i) the same conditions that applied at the time of A's death; and
  - (ii) the condition mentioned in paragraph (3).

(3) The permit shall be read as if it contained the following condition—

“As soon as is practicable after administration of the estate of A, the personal representative shall notify the regulator that the permit has vested in them.”

(4) The permit shall cease to have effect 6 months after the date on which A dies, unless it is transferred in accordance with regulation 20, by the personal representative, before the end of that period.

### **Surrender of a permit for a Part A installation or Part A mobile plant**

**22.**—(1) Subject to paragraph (2), this regulation applies where an operator of a Part A installation or Part A mobile plant ceases or intends to cease operating the installation (in whole or in part) or the mobile plant.

(2) This regulation does not apply in relation to that part of any installation or mobile plant where an activity falling within paragraphs (b), (d), (g) or (h) of Part A of section 5.1 of Part 1 of Schedule 1 is carried out.

- (3) Where this regulation applies, an operator may—
- (a) if they have ceased or intend to cease operating all of the installations and mobile plant covered by the permit, apply to the chief inspector to surrender the whole permit; or
  - (b) in any other case, apply to the chief inspector to surrender the permit in so far as it authorises the operation of the installation or mobile plant (“the surrender unit”) which they have ceased or intend to cease operating (a “partial surrender”).
- (4) An application under paragraph (3) shall be accompanied by any fee prescribed in respect of the application under regulation 25, and shall contain the following information—
- (a) the operator’s telephone number and address and, if different, any address to which correspondence relating to the application should be sent;
  - (b) in the case of a partial surrender, a description of the surrender unit and a map or plan identifying the part of the site used for the operation of the surrender unit;
  - (c) a site report describing the condition of the site, or the identified part of the site, identifying, in particular, any changes in the condition of the site as described in the site report, and where applicable, the baseline report, and including an assessment of any contamination caused to the soil or groundwater by relevant hazardous substances; and
  - (d) a description of the steps that have been taken to avoid pollution risks from the site, including any steps that have been taken to—
    - (i) return the site to a satisfactory state, and
    - (ii) remove, control, contain or reduce any relevant hazardous substance in soil and groundwater.
- (5) If the chief inspector is satisfied, in relation to the site, or in the case of a partial surrender, the part of the site used for the operation of the surrender unit, that all appropriate measures to—
- (a) avoid any pollution risk resulting from the operation of the Part A installation or Part A mobile plant;
  - (b) return the site to a satisfactory state, taking into account the technical feasibility of the measures; and
  - (c) remove, control, contain or reduce any relevant hazardous substance in soil or groundwater so that the site, taking into account its current or approved future use, ceases to pose a significant risk to human health or the environment,
- have been taken by the operator, the chief inspector shall accept the surrender and give the operator notice in writing of the determination and the permit shall cease to have effect or, in the case of partial surrender, shall cease to have effect to the extent surrendered, on the date specified in the notice of determination.
- (6) If, in the case of a partial surrender, the chief inspector is of the opinion that it is necessary to vary the conditions included in the permit to take account of the surrender, the chief inspector shall specify the necessary variations in the notice of determination given under paragraph (4) and the variations specified in the notice shall take effect on the date specified in the notice.
- (7) If the chief inspector is not satisfied as specified in paragraph (5) he shall give to the operator notice in writing of his determination stating that the application has been refused.
- (8) The chief inspector shall give notice in writing of his determination of an application under this regulation within the period of three months beginning with the date on which the chief inspector receives the application or within such longer period as the chief inspector and the operator may agree in writing.
- (9) If the chief inspector fails to give notice in writing of his determination accepting the surrender or refusing the application within the period allowed by or under paragraph (8) the application shall,

if the operator notifies the chief inspector in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

(10) The chief inspector may, by notice in writing to the operator, require the operator to furnish such further information specified in the notice, within the period so specified, as the chief inspector may require for the purpose of determining an application under this regulation.

(11) Where a notice is served on an operator under paragraph (10)—

- (a) for the purpose of calculating the period of three months specified in paragraph (8), no account shall be taken of the period beginning with the date on which notice is served and ending on the date on which the information specified in the notice is furnished; and
- (b) if the specified information is not furnished within the period specified, the application shall, if the chief inspector gives notice in writing to the operator that the failure is treated as such, be deemed to have been withdrawn at the end of that period.

(12) For the purpose of deciding whether a pollution risk results from the operation of a Part A installation or Part A mobile plant—

- (a) where the operation of the installation or plant involved the carrying out of a specified waste management activity, only risks resulting from the carrying out of that activity after the date on which the permit applying to the installation or mobile plant was granted shall be treated as resulting from the operation of the installation or mobile plant; and
- (b) where the operation of the installation or mobile plant involved the carrying out of other activities, only risks resulting from the carrying out of those other activities after the date on which the permit applying to the installation or mobile plant was granted shall be treated as resulting from the operation of the installation or mobile plant.

(13) The relevant date for a specified waste management activity for the purpose of paragraph (12)

(a) is—

- (a) where the activity was carried out on the site of the installation or mobile plant under a disposal licence which, by virtue of Article 10(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978<sup>(16)</sup>, ceased to have effect in relation to the carrying out of that activity on that site on the granting of the permit applying to the installation or mobile plant, the date on which that disposal licence was granted; and
- (b) in any other case, the date on which the permit applying to the installation or mobile plant was granted.

(14) In paragraph (13)(a) “disposal licence” has the same meaning as in Article 5(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978.

(15) In paragraphs (4)(c) and (12) “permit” means a permit granted under these Regulations or under the Pollution Prevention and Control (Northern Ireland) Regulations 2003<sup>(17)</sup>.

### **Surrender of a permit for a Part B or Part C installation or Part B or Part C mobile plant**

**23.**—(1) This regulation applies—

- (a) where an operator of a Part B or Part C installation or Part B or Part C mobile plant ceases or intends to cease operating the installation (in whole or in part) or the mobile plant; and
- (b) in relation to that part of any installation or mobile plant where an activity falling within paragraphs (b), (d), (g) and (h) of Part A of section 5.1 of Part 1 of Schedule 1 is carried out.

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<sup>(16)</sup> S.I. 1978/1049 (N.I. 19)

<sup>(17)</sup> S.R. 2003 No.46 the amendments are S.I. 2003/3311, S.R. 2003 No. 390, S.R. 2003 No. 496, S.R. 2004 No. 36, S.R. 2004 No. 507, S.R. 2005 No. 285, S.R. 2005 No. 300, S.R. 2005 No. 454, S.R. 2006 No. 98, S.R. 2006 No. 280, S.R. 2007 No. 245, S.I. 2007/2325, S.R. 2009 No. 159, S.R. 2009 No. 403, S.R. 2011 No. 2, S.R. 2011 No. 127, S.R. 2011 No. 212 and S.R. 2011 No. 402.

- (2) Where this regulation applies, the operator may—
- (a) if they have ceased or intend to cease operating all of the installations and mobile plant covered by the permit, notify the enforcing authority of the surrender of the whole permit; or
  - (b) in any other case, notify the enforcing authority of the surrender of the permit in so far as it authorises the operation of the installation or mobile plant (“the surrender unit”) which the operator has ceased or intends to cease operating (a “partial surrender”).
- (3) A notification under paragraph (2) shall contain the following information—
- (a) the operator’s telephone number and address and, if different, any address to which correspondence relating to the notification should be sent;
  - (b) in the case of a partial surrender of a permit, a description of the surrender unit and a map or plan identifying the part of the site used for the operation of the surrender unit;
  - (c) in the case of a partial surrender of a permit applying to mobile plant, a list of the mobile plant to which it applies; and
  - (d) the date on which the surrender is to take effect, which shall be at least 28 days after the date on which the notice is served on the enforcing authority.
- (4) The enforcing authority may, by notice in writing, require the operator to supply such further information specified in the notice within the period so specified.
- (5) Subject to paragraphs (6) and (7), where a surrender is notified under this regulation the permit shall cease to have effect on the date specified in the notification or, in the case of partial surrender, shall cease to have effect on that date to the extent surrendered.
- (6) If, in the case of a partial surrender, the enforcing authority is of the opinion that it is necessary to vary the conditions of the permit to take account of the surrender, the enforcing authority shall—
- (a) notify the operator of its opinion in writing; and
  - (b) serve a variation notice under regulation 19 on the operator specifying the variations of the conditions necessitated by the surrender,
- and the permit shall cease to have effect to the extent surrendered on the date on which the variations specified in the variation notice take effect if that date is after the date specified in the notification of the surrender.
- (7) If the enforcing authority has required the operator to supply further information by notice in writing, the enforcing authority shall serve notice on the operator acknowledging receipt of the requested information, and stating the date on which the permit will cease to have effect, which shall not be more than 28 days after the date on which the information was received.

### **Revocation of permits**

- 24.**—(1) The enforcing authority may at any time revoke a permit, in whole or in part, by serving a notice in writing (“a revocation notice”) on the operator.
- (2) Without prejudice to the generality of paragraph (1), the enforcing authority may serve a notice under this regulation in relation to a permit where—
- (a) the permit authorises the carrying out of a specified waste management activity and it appears to the chief inspector that the operator of the installation or mobile plant concerned has ceased to be a fit and proper person to carry out that activity by reason of their having been convicted of a relevant offence within the meaning of regulation 4(5) or by reason of the management of that activity having ceased to be in the hands of a technically competent person; or



- (b) the holder of the permit has ceased to be the operator of the installation or mobile plant covered by the permit.
- (3) A revocation notice may—
  - (a) revoke a permit entirely;
  - (b) revoke a permit only in so far as it authorises the operation of some of the installations or mobile plant to which it applies; or
  - (c) revoke a permit only in so far as it authorises the carrying out of some of the activities which may be carried out in an installation or by means of mobile plant to which it applies.
- (4) A revocation notice shall specify—
  - (a) in the case of a revocation specified in paragraph (3)(b) or (c) (a “partial revocation”), the extent to which the permit is being revoked; and
  - (b) in all cases, the date on which the revocation shall take effect, which shall be at least 28 days after the date on which the notice is served.
- (5) If, in the case of a revocation specified in paragraph (3)(b) or (c) applying to a Part A installation or Part A mobile plant, the chief inspector considers that it is appropriate to require the operator to take steps, once the installation or mobile plant is no longer in operation, to—
  - (a) avoid any pollution risk resulting from the operation of the installation or mobile plant on the site or, in the case of a partial revocation, that part of the site used for the operation of that installation or mobile plant;
  - (b) return the site, or that part of the site, to a satisfactory state; or
  - (c) remove, control, contain or reduce any relevant hazardous substance in soil or groundwater so that the site, taking into account its current or approved future use, ceases to pose a significant risk to human health or the environment,the revocation notice shall specify that this is the case and, in so far as those steps are not already required to be taken by the conditions of the permit, the steps to be taken.
- (6) Subject to paragraph (7) and regulation 31(6), a permit shall cease to have effect, or, in the case of a partial revocation, shall cease to have effect to the extent specified in the revocation notice, from the date specified in the notice.
- (7) Where paragraph (5) applies, the permit shall cease to have effect to authorise the operation of the Part A installation or Part A mobile plant from the date specified in the revocation notice but shall continue to have effect in so far as the permit requires steps to be taken once it is no longer in operation until the chief inspector issues a certificate of satisfaction stating that all such steps have been taken.
- (8) Where a permit continues to have effect as specified in paragraph (7), any steps specified in a revocation notice pursuant to paragraph (5) shall be treated as if they were required to be taken by a condition of the permit and regulations 19, 26, 27 and 36(1)(b) shall apply in relation to the requirement to take such steps, and to any other conditions in the permit which require steps to be taken once the installation is no longer in operation, until the chief inspector issues a certificate as specified in paragraph (7).
- (9) An enforcing authority which has served a revocation notice may, before the date on which the revocation takes effect, withdraw the notice.
- (10) Regulation 22(12) shall apply for the purpose of deciding whether a pollution risk results from the operation of a Part A installation or Part A mobile plant for the purpose of this regulation as it applies for the purpose of regulation 22.

### **Fees and charges in relation to permits**

**25.**—(1) There shall be charged by and paid to the enforcing authority such fees and charges as may be prescribed by a scheme under paragraph (2) (whether by being specified in or made calculable under the scheme).

(2) The Department may make, and from time to time revise, a scheme prescribing—

- (a) fees payable in respect of applications for permits;
- (b) fees payable in respect of, or of applications for, the variation, transfer and surrender of such permits;
- (c) charges payable in respect of the subsistence of such permits; and
- (d) fees and costs payable in connection with appeals under these Regulations.

(3) The Department shall, on making or revising a scheme under paragraph (2), lay a copy of the scheme or of the revisions made to the scheme or, if it considers it more appropriate, the scheme as revised, before the Assembly.

(4) The Department may make separate schemes for fees and charges payable to the chief inspector and fees and charges payable to district councils under these Regulations.

(5) A scheme under paragraph (2) may, in particular—

- (a) allow for reduced fees or charges to be payable in respect of permits granted to the same person;
- (b) provide for the times at which and the manner in which the payments required by the scheme are to be made (subject to the requirements in these Regulations as to the times at which payment is required); and
- (c) make such incidental, supplementary and transitional provisions as appears to the Department to be appropriate.

(6) The Department, in framing a scheme under paragraph (2), shall, so far as practicable, secure that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover the expenditure incurred by—

- (a) the enforcing authorities in exercising their functions under these Regulations in relation to permits;
- (b) the Department in exercising its functions under regulation 15(1) or in preparing guidance in relation to the authorisation of installations and mobile plant covered by district council permits.

(7) A scheme under paragraph (2) may provide that, to the extent that the sums paid to a district council under the scheme relate to expenditure incurred by the Department as specified in paragraph (6)(b), those sums shall be paid by the district council to the Department.

(8) If it appears to the enforcing authority that the holder of a permit has failed to pay a charge due in consideration of the subsistence of the permit, it may revoke the permit under regulation 24.

(9) Any fees and charges received by the chief inspector under this regulation shall be paid into the Consolidated Fund.

(10) In this regulation, “district council permit” means a permit applying to installations or mobile plant in relation to which a district council exercises functions under these Regulations.

## PART 3

### ENFORCEMENT

#### **Duty of the enforcing authority to undertake inspections and to ensure compliance with conditions**

**26.**—(1) While a permit is in force it shall be the duty of the enforcing authority to take such action under these Regulations as may be necessary for the purpose of ensuring that the conditions of the permit are complied with.

(2) In the case of a Part A installation or Part A mobile plant the chief inspector shall set up a system of environmental inspections of installations and mobile plant addressing the examination of the full range of relevant environmental effects from the installations and mobile plant concerned.

(3) The chief inspector shall ensure that all installations and mobile plant are covered by an environmental inspection plan and shall ensure that this plan is regularly reviewed and, where appropriate, updated.

(4) Each environmental inspection plan shall include the following—

- (a) a general assessment of relevant significant environmental issues;
- (b) the geographical area covered by the inspection plan;
- (c) a register of the installations and mobile plant covered by the plan;
- (d) procedures for drawing up programmes for routine environmental inspections pursuant to paragraph (5); and
- (e) procedures for non-routine environmental inspections pursuant to paragraph (7).

(5) Based on the inspection plans, the chief inspector shall regularly draw up programmes for routine environmental inspections, including the frequency of site visits for different types of installations and mobile plant so that—

- (a) the period between two site visits is based on a systematic appraisal of the environmental risks of the installations and mobile plant concerned and does not exceed one year for installations and mobile plant posing the highest risks and three years for installations and mobile plant posing the lowest risks;
- (b) if an inspection has identified an important case of non-compliance with the permit conditions, an additional site visit shall be carried out within six months of that inspection;

(6) The systematic appraisal of the environmental risks shall be based on at least the following criteria—

- (a) the potential and actual impacts of the installations and mobile plant concerned on human health and the environment taking into account the levels and types of emissions, the sensitivity of the local environment and the risk of accidents;
- (b) the record of compliance with permit conditions; and
- (c) the participation of the operator in the European Union's eco-management and audit scheme (EMAS), pursuant to Regulation (EC) No 1221/2009(18) of the European Parliament and of the Council of 25 November 2009.

(7) Non-routine environmental inspections shall be carried out to investigate serious environmental complaints, serious environmental accidents, incidents and occurrences of non-compliance as soon as possible and, where appropriate, before the granting, reconsideration or update of a permit.

- (8) Following each site visit, the chief inspector shall—
- (a) prepare a report describing its relevant findings regarding compliance of the installation or mobile plant with the permit conditions and its conclusions on whether any further action is necessary;
  - (b) notify the operator concerned within two months of the site visit taking place; and
  - (c) make the report publicly available within four months of the site visit taking place, in accordance with Directive 2003/4/EC(19) of the European Parliament and of the Council of 28 January 2003 on public access to environmental information.

### Enforcement notices

27.—(1) If the enforcing authority is of the opinion that an operator has contravened, is contravening or is likely to contravene any condition of his permit, the enforcing authority may serve on him a notice (an “enforcement notice”).

- (2) An enforcement notice shall—
- (a) state the opinion of the enforcing authority;
  - (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise;
  - (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be;
  - (d) specify the period within which those steps must be taken; and
  - (e) be in writing.

(3) The steps that may be specified in an enforcement notice as steps that must be taken to remedy the contravention of any condition of a permit may include both steps that must be taken to make the operation of the installation or mobile plant comply with the conditions of the permit and steps that must be taken to remedy the effects of any pollution caused by the contravention.

(4) The enforcing authority may also serve on an operator an enforcement notice in the event of an accident or incident significantly affecting the environment.

- (5) An enforcement notice served under paragraph (4) shall—
- (a) specify the measures that the enforcing authority considers necessary to limit the environmental consequences and to prevent further possible incidents or accidents;
  - (b) specify the period within which those steps must be taken; and
  - (c) be in writing.

(6) The enforcing authority may withdraw an enforcement notice at any time by further written notice served on the operator.

### Suspension notices

28.—(1) If the enforcing authority is of the opinion, in respect of an installation or mobile plant authorised under these Regulations, that the operation of the installation or mobile plant, or the operation of it in a particular manner, involves an imminent risk of serious pollution, it shall, unless it intends to arrange for steps to be taken under regulation 29(1) in relation to the risk, serve a notice under this regulation (a “suspension notice”) on the operator of the installation or mobile plant.

(2) Paragraph (1) applies whether or not the particular manner of operating the installation or mobile plant in question is regulated by or contravenes a condition of the permit.

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(19) O.J. L41, 14.2.2003, p.26

(3) If the chief inspector is of the opinion, in respect of the carrying out of specified waste management activities under a permit, that the operator carrying out the activities has ceased to be a fit and proper person in relation to those activities by reason of their management having ceased to be in the hands of a technically competent person, the chief inspector may serve a suspension notice on that operator.

(4) A suspension notice shall—

- (a) state the enforcing authority's opinion, as mentioned in paragraph (1) or (3);
- (b) in the case of a notice served under paragraph (1), specify—
  - (i) the imminent risk involved in the operation of the installation or mobile plant;
  - (ii) the steps that must be taken to remove it and the period within which they must be taken;
- (c) state that any relevant permit shall, until the notice is withdrawn, cease to have the effect of authorising the operation of the installation or mobile plant or the carrying out of specified activities in the installation or by means of the mobile plant;
- (d) where any relevant permit is to continue to have the effect of authorising the carrying out of activities, state any steps, in addition to those already required to be taken by the conditions of the permit, that are to be taken in carrying out those activities; and
- (e) be in writing.

(5) Where a suspension notice is served under this regulation any relevant permit shall, on the service of the notice, cease to have effect as stated in the notice.

(6) The enforcing authority may withdraw a suspension notice at any time, by further notice served on the operator, and shall withdraw a notice when it is satisfied—

- (a) in the case of a notice served under paragraph (1), that the steps required by the notice to remove the imminent risk of serious pollution have been taken; and
- (b) in the case of a notice served under paragraph (3), that the management of the specified waste management activities is in the hands of a technically competent person.

### **Power of the enforcing authority to prevent or remedy pollution**

**29.**—(1) If the enforcing authority is of the opinion, in respect of the operation of an installation or mobile plant authorised under these Regulations, that the operation of the installation or mobile plant, or the operation of it in a particular manner, involves an imminent risk of serious pollution, the enforcing authority may arrange for steps to be taken to remove that risk.

(2) Where the commission of an offence under regulation 36(1)(a), (b) or (d) causes any pollution the enforcing authority may arrange for steps to be taken towards remedying the effects of the pollution.

(3) An enforcing authority which intends to arrange for steps to be taken under paragraph (2) shall, at least seven days before the steps are taken, notify the operator in writing of the steps that are to be taken.

(4) Subject to paragraph (5), where an enforcing authority arranges for steps to be taken under this regulation it may recover the cost of taking those steps from the operator concerned.

(5) No costs shall be recoverable under paragraph (4) where the enforcing authority arranges for steps to be taken under paragraph (1) if the operator shows that there was no imminent risk of serious pollution requiring any such steps to be taken and no other costs shall be recoverable which the operator shows to have been unnecessarily incurred by the enforcing authority.

### **Powers of inspectors and others**

**30.**—(1) An inspector may, on production (if so required) of his authority, exercise any of the powers in paragraph (3) for the purpose of—

- (a) determining whether any provisions of the pollution control statutory provisions in the case of an enforcing authority are being, or have been, complied with;
- (b) discharging one or more of the functions conferred or imposed on an enforcing authority by or under the pollution control statutory provisions; or
- (c) determining whether and, if so, how such a function should be discharged.

(2) Those powers, so far as exercisable in relation to premises, are exercisable in relation to premises on which activities listed—

- (a) in Part 1 of Schedule 1 are, or are believed (on reasonable grounds) to be carried out;
- (b) in Part 1 of Schedule 1 have, or are believed (on reasonable grounds) to have, been carried out (whether or not the activities were so listed when they were carried out), the condition of which is believed (on reasonable grounds) to be such as to give rise to a risk of serious pollution; and
- (c) in Schedule 1 to the Greenhouse Gas Emissions Trading Scheme Regulations 2005<sup>(20)</sup> are or have been, or are believed (on reasonable grounds) to be or to have been, carried out.

(3) The powers of the inspector are—

- (a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, by force) any premises which he has reason to believe it is necessary for him to enter;
- (b) on entering any premises by virtue of sub-paragraph (a) to take with him—
  - (i) any person duly authorised by the chief inspector or the district council and, if the inspector has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
  - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) to make such examination and investigation as may in any circumstances be necessary;
- (d) as regards any premises which he has power to enter, to direct that those premises or any part of them or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (f) to take samples of any articles or substances found in or on any premises which he has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises;
- (g) in the case of any article or substance found in or on any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause pollution, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is necessary);
- (h) in the case of any such article or substance as is mentioned in sub-paragraph (g), to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
  - (i) to examine it and do to it anything which he has power to do under that sub-paragraph;

- (ii) to ensure that it is not tampered with before his examination of it is completed; and
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under regulation 36 or 37 or any other proceedings relating to a permit;
  - (i) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers;
  - (j) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which are required to be kept under the pollution control statutory provisions or which it is necessary for him to see for the purposes of an examination or investigation under sub-paragraph (c) and to inspect and take copies of, or of any entry in, the records;
  - (k) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any powers conferred on him by this regulation; and
  - (l) any other power for the purpose mentioned in paragraph (1) which is conferred by regulations made by the Department.
- (4) The powers, which under paragraphs (1) and (3) are conferred in relation to any premises for the purpose of enabling an enforcing authority to determine whether any provision of the pollution control statutory provisions in the case of that enforcing authority is being, or has been, complied with, shall include power, in order to obtain the information on which that determination may be made—
- (a) to carry out experimental borings or other works on those premises; and
  - (b) to install, keep or maintain monitoring and other apparatus there.
- (5) Except in an emergency, in any case where it is proposed to take heavy equipment on to any premises which are to be entered, any entry by virtue of this regulation shall only be effected—
- (a) after the expiration of at least 7 days' notice in writing of the proposed entry given to a person who appears to the inspector to be in occupation of the premises in question; and
  - (b) either—
    - (i) with the consent of a person who is in occupation of those premises; or
    - (ii) under the authority of a warrant by virtue of Schedule 14.
- (6) Except in an emergency, where an inspector proposes to enter any premises and—
- (a) entry has been refused and he apprehends on reasonable grounds that the use of force may be necessary to effect entry; or
  - (b) he apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry,
- any entry on those premises by virtue of this regulation shall only be effected under the authority of a warrant by virtue of Schedule 14.
- (7) Where an inspector proposes to exercise the power conferred by paragraph (3)(g) in the case of any article or substance found on any premises, he shall, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.
- (8) Before exercising the power conferred by paragraph (3)(g) in the case of any article or substance, an inspector shall consult—

- (a) such persons having duties on the premises where the article or substance is to be dismantled or subjected to the process or test; and
- (b) such other persons,  
as appear to them appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(9) No answer given by a person in pursuance of a requirement imposed under paragraph (3)(i) shall be admissible in evidence against that person in any proceedings.

(10) Nothing in this regulation shall be taken to compel the production by any person of a document of which that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.

(11) In this regulation and Schedule 14—

“emergency” means a case in which it appears to the inspector in question—

- (a) that there is an immediate risk of serious pollution; or
- (b) that circumstances exist which are likely to endanger life or health,  
and that immediate entry to any premises is necessary to verify the existence of that risk or those circumstances or to ascertain the cause of that risk or those circumstances or to effect a remedy;

“pollution control statutory provisions” means—

- (a) the Environment (Northern Ireland) Order 2002 and regulations made thereunder;
- (b) the Planning (Control of Major Accident Hazards) Regulations (Northern Ireland) 2000<sup>(21)</sup>;
- (c) the Greenhouse Gas Emissions Trading Scheme Regulations 2005; or
- (d) regulations made under section 2(2) of the European Communities Act 1972<sup>(22)</sup> to the extent that those regulations relate to pollution;

“premises” includes any land, vehicle or vessel; and

“vehicle” means any motor vehicle or trailer within the meaning of the Road Traffic (Northern Ireland) Order 1981<sup>(23)</sup>.

(12) Schedule 14 shall have effect with respect to the powers of entry and related powers which are conferred by this regulation.

(13) This regulation and Schedule 14 apply (with appropriate modifications) in relation to mobile plant as they apply to premises.

(14) Nothing in section 98 of the Local Government Act (Northern Ireland) 1972<sup>(24)</sup> shall apply to functions conferred on a district council under these Regulations.

## PART 4

### APPEALS

#### Appeals from decisions with respect to permits

**31.**—(1) Subject to paragraph (3), the following persons, namely—

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<sup>(21)</sup> S.R. 2000 No. 101

<sup>(22)</sup> 1972 c.68

<sup>(23)</sup> S.I. 1981/154 (N.I. 1)

<sup>(24)</sup> 1972 c.9 (N.I.)



- (a) a person who has been refused the grant of a permit under regulation 10;
- (b) a person who has been refused the variation of the conditions of a permit on an application under regulation 19(2);
- (c) a person who is aggrieved by the conditions attached to his permit following an application under regulation 10 or by a variation notice following an application under regulation 19(2);
- (d) a person whose application under regulation 20(1) for an enforcing authority to effect the transfer of a permit has been refused or who is aggrieved by the conditions attached to their permit to take account of such a transfer;
- (e) a person whose application under regulation 22(3) to surrender a permit has been refused, or who is aggrieved by the conditions attached to their permit to take account of the surrender;
- (f) a person who is aggrieved by a determination by an enforcing authority that information is not commercially confidential under regulation 35(2) or (5);
- (g) a person whose request to initiate the closure procedure is not approved under regulation 15(3)(b) of the 2003 Landfill Regulations; or
- (h) a person who is aggrieved by a decision relating to that person under paragraph 1(6)(b) of Schedule 4 to the 2003 Landfill Regulations,

may appeal against the decision or determination to the Planning Appeals Commission.

(2) Subject to paragraph (3), a person on whom a variation notice is served, other than following an application under regulation 19(2) or on whom a revocation notice, an enforcement notice, a suspension notice or a closure notice under regulation 16(1) of the 2003 Landfill Regulations is served may appeal against the notice to the Planning Appeals Commission.

(3) Paragraphs (1) and (2) shall not apply where the decision or notice implements a direction of the Department given under regulations 12(11) or 40 or paragraph 17(13) of Schedule 4 or paragraph 7(13) of Schedule 7, or a determination of an appeal by the Planning Appeals Commission.

(4) Where an appeal is brought against the decision or determination of an enforcing authority under paragraph (1), the Planning Appeals Commission may allow or dismiss the appeal or may reverse or vary any part of the decision or determination, and any determination of the Planning Appeals Commission on the appeal shall have the like effect as a decision of the enforcing authority.

(5) On the determination of an appeal made under paragraph (2) the Planning Appeals Commission may either quash or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as it may in the circumstances think fit.

(6) Where an appeal is brought under paragraph (2) against a revocation notice, the revocation shall not take effect pending the final determination or the withdrawal of the appeal.

(7) Where an appeal is brought under paragraph (1)(c), (d) or (e) in relation to the conditions attached to a permit, the bringing of the appeal shall not have the effect of suspending the operation of the conditions.

(8) Where an appeal is brought under paragraph (2) against a variation notice, an enforcement notice or a suspension notice, the bringing of the appeal shall not have the effect of suspending the operation of the notice.

(9) Where an appeal is brought under paragraph (1)(g) in relation to a request to initiate the closure procedure or under paragraph (2) in relation to a closure notice, the closure procedure shall not be initiated pending the final determination or the withdrawal of the appeal.

(10) Regulations 11 to 14 of these Regulations or regulation 8 of the 2003 Landfill Regulations shall apply where the Planning Appeals Commission, in exercising any of its powers under

paragraphs (4) or (5), gives directions as to the conditions to be attached to a permit as they would apply to the enforcing authority when determining the conditions of the permit.

(11) Schedule 15 shall have effect in relation to the making and determination of appeals under this regulation.

(12) Where an appeal is brought under paragraph (1)(g) or (h) in relation to a landfill in respect of which a waste management licence within the meaning of Part II of the Waste and Contaminated Land (Northern Ireland) Order 1997 (a “licence”) is in force, this regulation and Schedule 15 shall apply as if—

- (a) references to a permit were references to a licence;
- (b) references to an operator were references to a licence holder; and
- (c) references to an installation or mobile plant were references to a landfill.

## PART 5

### INFORMATION AND PUBLICITY

#### Information

**32.**—(1) For the purpose of the discharge of its functions under these Regulations or the 2003 Landfill Regulations, the Department may, by notice in writing served on an enforcing authority, require the enforcing authority to furnish such information about the discharge of its functions as an enforcing authority as it may require.

(2) For the purposes of the discharge of their functions under these Regulations or the 2003 Landfill Regulations, the Department or an enforcing authority may, by notice in writing served on any person, require that person to furnish such information as is specified in the notice, in such form and within such period following service of the notice or at such time as is so specified.

(3) For the purposes of this regulation, the discharge by the Department of an obligation of the United Kingdom under the European Union Treaties or any international agreement relating to the environment shall be treated as a function of the Department under these Regulations and the compilation of an inventory of emissions (whether or not from installations or mobile plant) shall be treated as a function of the chief inspector under these Regulations.

(4) The information which a person may be required to furnish by a notice served under paragraph (2) includes information on emissions which, although it is not in the possession of that person or would not otherwise come into the possession of that person, is information which it is reasonable to require that person to compile for the purpose of complying with the notice.

#### Public registers of information

**33.**—(1) Subject to regulations 34 and 35 and to paragraphs 2 to 5 of Schedule 16, it shall be the duty of each enforcing authority, in respect of installations or mobile plant for which it is the enforcing authority, to maintain a register containing the particulars described in paragraph 1 of that Schedule.

(2) Subject to paragraph (3), the register maintained by a district council shall also contain any particulars contained in any register maintained by the chief inspector relating to the operation of an installation or mobile plant in the district of the district council in relation to which the chief inspector has functions under these Regulations.

(3) The chief inspector shall furnish each district council with the particulars which are necessary to enable it to discharge its duty under paragraph (2).

(4) Where information of any description is excluded from any register by virtue of regulation 35, a statement shall be entered in the register indicating the existence of information of that description.

(5) It shall be the duty of each enforcing authority—

- (a) to secure that the registers maintained by them under this regulation are available, at all reasonable times, for inspection by the public free of charge; and
- (b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

(6) Registers under this regulation may be kept in any form.

### **Exclusion from registers of information affecting national security**

**34.**—(1) No information shall be included in a register maintained under regulation 33 if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.

(2) The Secretary of State may, for the purpose of securing the exclusion from registers of information to which paragraph (1) applies, give to enforcing authorities directions—

- (a) specifying information, or descriptions of information, to be excluded from their registers; or
- (b) specifying descriptions of information to be referred to the Secretary of State for his determination,

and no information referred to the Secretary of State in pursuance of sub-paragraph (b) shall be included in any such register until the Secretary of State determines that it should be so included.

(3) The enforcing authority shall notify the Secretary of State of any information it excludes from the register in pursuance of directions under paragraph (2).

(4) A person may, as respects any information which appears to him to be information to which paragraph (1) may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

- (a) he shall notify the enforcing authority that he has done so; and
- (b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.

### **Exclusion from registers of certain confidential information**

**35.**—(1) No information relating to the affairs of any individual or business shall be included in a register maintained under regulation 33, without the consent of that individual or the person for the time being carrying on that business, if and so long as the information—

- (a) is, in relation to the person, commercially confidential; and
- (b) is not required to be included in the register in pursuance of a direction under paragraph (7),

but information is not commercially confidential for the purposes of this regulation unless it is determined under this regulation to be so by the enforcing authority or, on appeal, by the Planning Appeals Commission.

(2) Where information is furnished to an enforcing authority for the purpose of these Regulations the person furnishing it may apply to the enforcing authority to have the information excluded from the register on the ground that it is commercially confidential (as regards that or another person) and the enforcing authority shall determine whether the information is or is not commercially confidential.

(3) Notice of determination under paragraph (2) shall be given to the applicant in writing within the period of 28 days beginning with the date of the application or within such longer period as may be agreed with the applicant.

(4) If the enforcing authority fails to give notice of its determination of an application under paragraph (2) within the period allowed by or under paragraph (3), the enforcing authority shall, if the applicant notifies the enforcing authority in writing that they treat the failure as such, be deemed to have determined at the end of that period that the information is not commercially confidential.

(5) Where it appears to an enforcing authority that any information which has been obtained by the enforcing authority under or by virtue of any provision of these Regulations and which is required to be included in the register unless excluded under this regulation might be commercially confidential, the enforcing authority shall (unless the information is the subject of an application under paragraph (2))—

- (a) give to the person to whom or to whose business it relates notice in writing that that information is required to be included in the register unless excluded under this regulation; and
- (b) give that person a reasonable opportunity—
  - (i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and
  - (ii) of making representations to the enforcing authority for the purpose of justifying any such objection,

and, if any representations are made, the enforcing authority shall, having taken the representations into account, give that person notice of its determination as to whether the information is or is not commercially confidential.

(6) Where, under paragraph (2) or (5), an enforcing authority determines that information is not commercially confidential—

- (a) the information shall not be entered in the register until the end of the period of 21 days beginning with the date on which the determination is notified to the person concerned or the determination is deemed to have been made under paragraph (4);
- (b) if that person before the end of that period appeals to the Planning Appeals Commission against the decision under regulation 31(1)(f), the information shall not be entered in the register until the end of the period of seven days following the day on which the appeal is finally determined or is withdrawn.

(7) The Department may give to the enforcing authority directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under regulation 33 notwithstanding that the information may be commercially confidential.

(8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this regulation at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded or at the expiry of such shorter period as may be specified in the notice of that determination for the purpose of this paragraph; but the person who furnished it may apply to the enforcing authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the enforcing authority shall determine whether or not that is the case.

(9) Paragraph (6) shall apply in relation to a determination under paragraph (8) as it applies in relation to a determination under paragraph (2) or (5).

(10) Information is, for the purposes of any determination under this regulation, commercially confidential, in relation to any individual or other person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or other person.

## PART 6

### PROVISION AS TO OFFENCES

#### Offences

**36.—**(1) It is an offence for any person—

- (a) to contravene regulation 9(1);
- (b) to fail to comply with or to contravene a condition of a permit;
- (c) to fail to comply with regulation 18(1);
- (d) to fail to comply with the requirements of an enforcement or a suspension notice served under regulation 27 or 28 or a compliance or closure notice served under regulation 15A or 16 of the 2003 Landfill Regulations;
- (e) without reasonable excuse to fail to comply with any requirement imposed under regulation 30;
- (f) without reasonable excuse—
  - (i) to fail or refuse to provide facilities or assistance or any information or to permit any inspection reasonably required by an inspector in the execution of their powers or duties under regulation 30; or
  - (ii) to prevent any other person from appearing before an inspector, or answering any questions to which an inspector may require an answer, pursuant to regulation 30(3);
- (g) without reasonable excuse to fail to comply with any requirement imposed by a notice under regulation 32(2);
- (h) to make a statement which they know to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
  - (i) in purported compliance with a requirement to furnish any information imposed by or under these Regulations or the 2003 Landfill Regulations; or
  - (ii) for the purpose of obtaining the grant of a permit to themselves or any other person, or the variation, transfer or surrender of a permit;
- (i) intentionally to make a false entry in any record required to be kept under a condition of a permit;
- (j) with intent to deceive, to forge or use a document issued or authorised to be issued under a condition of a permit or required for any purpose under a condition of a permit or to make or have in their possession a document so closely resembling any such document as to be likely to deceive;
- (k) to fail to comply with an order made by a court under regulation 39;
- (l) intentionally to obstruct an inspector in the exercise or performance of his powers or duties; or
- (m) falsely to pretend to be an inspector.

(2) A person guilty of an offence under sub-paragraph (a), (b), (d) or (k) of paragraph (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months or to both; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both.

(3) A person guilty of an offence under sub-paragraph (c), (g), (h), (i) or (j) of paragraph (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(4) A person guilty of an offence under sub-paragraph (e), (f) or (m) of paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) A person guilty of an offence under sub-paragraph (l) of paragraph (1) shall be liable—

- (a) in the case of an offence of obstructing an inspector in the execution of their powers under regulation 29—
  - (i) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years, or to both;
- (b) in any other case, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(6) For the purposes of this regulation, section 20(2) of the Interpretation Act (Northern Ireland) 1954<sup>(25)</sup> applies with the omission of the words “the liability of whose members is limited”.

(7) Where the affairs of a body corporate are managed by its members, paragraph (6) shall apply in relation to the acts or defaults of a member in connection with their functions of management as if he were a director of the body corporate.

(8) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

### **Enforcement by the High Court**

37. If the enforcing authority is of the opinion that proceedings for an offence under regulation 36(1)(d) would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice or a suspension notice under these Regulations, or compliance notice or closure notice under the 2003 Landfill Regulations, the enforcing authority may take proceedings in the High Court for the purpose of securing compliance with the notice.

### **Admissibility of evidence**

38.—(1) Information provided or obtained pursuant to or under a condition of a permit (including information so provided or obtained, or recorded, by means of any apparatus) shall be admissible in evidence in any proceedings, whether against the person subject to the condition or any other person.

(2) For the purposes of paragraph (1), apparatus shall be presumed in any proceedings to register or record accurately, unless the contrary is shown or the permit otherwise provides.

(3) Where—

- (a) by virtue of a condition of a permit granted by an enforcing authority an entry is required to be made in any record as to the observance of any condition of the permit; and
- (b) the entry has not been made,

that fact shall be admissible as evidence that that condition has not been observed.

(4) In this regulation—

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(25) 1954 c.33 (N.I.)

“apparatus” includes any meter or other device for measuring, assessing, determining, recording or enabling to be recorded the volume, temperature, radioactivity, rate, nature, origin, composition, or effect of any substance, flow, discharge, emission, deposit or abstraction; and  
“condition of a permit” includes any requirement to which a person is subject under or in consequence of a permit.

### **Power of court to order cause of offence to be remedied**

**39.**—(1) Where a person is convicted of an offence under regulation 36(1)(a), (b) or (d) in respect of any matters which appear to the court to be matters which it is in that person’s power to remedy, the court may, in addition to or instead of imposing any punishment, order the person, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying those matters.

(2) The time fixed by an order under paragraph (1) may be extended or further extended by order of the court on an application to the court made before the end of the time as originally fixed under paragraph (1), or extended under this paragraph.

(3) Where a person is ordered under paragraph (1) to remedy any matters, that person shall not be liable under regulation 36 in respect of those matters in so far as they continue during the time fixed by the order under paragraph (1), or any further time allowed under paragraph (2).

## **PART 7**

### **THE DEPARTMENT’S POWERS**

#### **Directions to enforcing authorities**

**40.**—(1) The Department may give directions to enforcing authorities of a general or specific character with respect to the carrying out of any of their functions under these Regulations or the 2003 Landfill Regulations.

(2) Without prejudice to the generality of the power conferred by paragraph (1), a direction under that paragraph may direct enforcing authorities—

- (a) to exercise any of their powers under these Regulations or the 2003 Landfill Regulations or to do so in such circumstances as may be specified in the directions or in such manner as may be so specified; or
- (b) not to exercise those powers, or not to do so in such circumstances or such manner as may be specified in the directions.

(3) Where the Department receives information pursuant to Article 26(1) of the IED in relation to the operation of an installation outside of the United Kingdom which is likely to have a significant negative effect on the environment of Northern Ireland, it shall, for the purpose of complying with Article 26(2) of the IED, direct the chief inspector to take such steps as it considers appropriate for the purpose of bringing the information to the attention of the persons in Northern Ireland likely to be affected by the operation of the installation and providing them with an opportunity to comment on that information.

(4) Where the Department receives information pursuant to Article 26(4) of the IED, it shall, for the purpose of complying with that Article, direct the chief inspector to take such steps as it considers appropriate for the purpose of bringing the information to the attention of persons in Northern Ireland likely to be affected by the operation of the installation to which the information relates.

(5) Any direction given under these Regulations shall be in writing and may be varied or revoked by a further such direction.

(6) It shall be a duty of an enforcing authority to comply with any direction which is given to it under these Regulations.

### **Guidance to enforcing authorities**

**41.**—(1) The Department may issue guidance to enforcing authorities with respect to the carrying out of any of their functions under these Regulations or the 2003 Landfill Regulations.

(2) An enforcing authority, in carrying out any of its functions under these Regulations or the 2003 Landfill Regulations, shall have regard to any guidance issued by the Department under this regulation.

### **Plans relating to emissions**

**42.**—(1) Subject to paragraph (3), the Department may make plans for—

- (a) the setting of limits on the total amount, or the total amount in any period, of emissions from all, or any description of, sources within Northern Ireland; or
- (b) the allocation of quotas relating to such emissions.

(2) Where the Department allocates a quota in a plan made under paragraph (1) it may also make a scheme for the trading or other transfer of the quota so allocated.

(3) This regulation shall not apply to an emission plan.

(4) In this regulation—

“emission” means the direct or indirect release of any substance from individual or diffuse sources into the air, water or land; and

“emission plan” has the meaning given in the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007<sup>(26)</sup>.

## **PART 8**

### **MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS**

#### **Disclosure of information**

**43.**—(1) Notwithstanding any prohibition or restriction imposed by or under any statutory provision or rule of law, information of any description may be disclosed—

- (a) by the Department to any enforcing authority; or
- (b) by any enforcing authority to the Department or any other enforcing authority, for the purpose of facilitating the carrying out by the Department or by any enforcing authority of any of their functions under these Regulations; and no person shall be subject to any civil or criminal liability in consequence of any disclosure made by virtue of this paragraph.

(2) Nothing in this regulation shall authorise the disclosure of information, disclosure of which would, in the opinion of the Secretary of State, be contrary to the interests of national security.

(3) No information disclosed to any person under this regulation shall be disclosed by that person to any other person otherwise than in accordance with the provisions of this regulation, or any other statutory provision which authorises or requires the disclosure, if that information is information—



- (a) which relates to a trade secret of any person or which otherwise is or might be commercially confidential in relation to any person; or
- (b) whose disclosure otherwise than under this regulation would, in the opinion of the Secretary of State, be contrary to the interests of national security.

(4) Any authorisation by or under this regulation of the disclosure of information by or to any person shall also be taken to authorise the disclosure of that information by or to any officer of the Secretary of State, who is authorised by that person to make the disclosure or to receive the information.

(5) Information is for the purposes of this regulation commercially confidential in relation to any person if its disclosure would prejudice to an unreasonable degree the commercial interests of that person.

### **Revocations**

- 44.** Schedule 17 shall have effect.

Sealed with the Official Seal of the Department of the Environment on XX XXX 2013.



*Wesley Shannon*  
A senior officer of the Department of the  
Environment

## SCHEDULES

### SCHEDULE 1

Regulation 2

#### ACTIVITIES, INSTALLATIONS AND MOBILE PLANT

### PART 1

#### ACTIVITIES

##### CHAPTER 1

#### ENERGY INDUSTRIES

##### SECTION 1.1

#### COMBUSTION ACTIVITIES

##### Part A

- (a) Burning any fuel in an appliance with a rated thermal input of 50 megawatts or more.

##### *Interpretation of Part A*

1. Where two or more appliances with an aggregate rated thermal input of 50 megawatts or more are operated on the same site by the same operator those appliances shall be treated as a single appliance with a rated thermal input of 50 megawatts or more.

##### Part B

Nil.

##### Part C

- (a) Unless falling within Part A of this section, burning any fuel, in a boiler or furnace or a gas turbine or compression ignition engine with, in the case of any of these appliances, a net rated thermal input of 20 megawatts or more but less than a rated thermal input of 50 megawatts.

##### *Interpretation of Part C*

1. Nothing in this Part applies to any activity falling within Part A of section 5.1.

##### SECTION 1.2

#### GASIFICATION, LIQUEFACTION AND REFINING ACTIVITIES

##### Part A

- (a) Refining gas.
- (b) Operating coke ovens.
- (c) Gasification or liquefaction of—
  - (i) coal; or

- (ii) other fuels in installations with a total rated thermal input of 20 megawatts or more.
- (d) Refining mineral oils.
- (e) The loading, unloading or other handling of, the storage of, or the physical, chemical or thermal treatment of—
  - (i) crude oil; or
  - (ii) stabilised crude petroleum;
- (f) Activities involving the pyrolysis, carbonisation, distillation, liquefaction, gasification, partial oxidation or other heat treatment of coal (other than the drying of coal), lignite, oil, other carbonaceous material or mixtures thereof otherwise than with a view to making charcoal.

#### *Interpretation of Part A*

**1.** Head (f) does not include—

- (a) the incineration or pyrolysis of any substance as a waste;
- (b) any activity for the treatment of sewage or sewage sludge;
- (c) the anaerobic digestion of biodegradable material, none of which is waste; or
- (d) the anaerobic digestion of biodegradable waste in an installation with a waste treatment capacity not exceeding 100 tonnes per day.

**2.** In head (f), the heat treatment of oil, other than distillation, does not include the heat treatment of waste oil or waste emulsions containing oil in order to recover the oil from aqueous emulsions.

#### **Part B**

- (a) Blending odorant for use with natural gas or liquefied petroleum gas.
- (b) The storage of petrol in stationary storage tanks at a terminal, or the loading or unloading of petrol into or from road tankers, rail tankers or inland waterway vessels at a terminal, where the total quantity of petrol loaded from the stationary storage tanks into road tankers, rail tankers or inland waterway vessels in any 12 month period is likely to be equal to or greater than 10,000 tonnes.

#### **Part C**

- (a) The storage of petrol in stationary storage tanks at a terminal, or the loading or unloading of petrol into or from road tankers, rail tankers or inland waterway vessels at a terminal where the total quantity of petrol loaded from the stationary storage tanks into road tankers, rail tankers or inland waterway vessels in any 12 month period is likely to be less than 10,000 tonnes.
- (b) The unloading of petrol into stationary storage tanks at a service station, if the total quantity of petrol unloaded into such tanks at the service station in any period of 12 months is likely to be 500m<sup>3</sup> or more.
- (c) Motor vehicle refuelling activities at an existing service station after the listed date.
- (d) Motor vehicle refuelling activities at a new service station, if the petrol refuelling throughput at that service station in any 12 month period is, or is intended to be, greater than 500 m<sup>3</sup>.
- (e) Motor vehicle refuelling activities at a new service station if the petrol refuelling throughput at that service station in any 12 month period is, or is likely to be, greater than 100 m<sup>3</sup> and it is situated under permanent living quarters or working areas.
- (f) Any existing service station which undergoes a major refurbishment must be treated as a new service station.

### *Interpretation of Part C*

#### 1. In this Part—

“existing service station” means a service station—

- (a) which is put into operation; or
- (b) for which planning permission under the Planning (Northern Ireland) Order 1991 was granted,

before 31<sup>st</sup> December 2009;

“inland waterway vessel” means a vessel, other than a sea-going vessel, having a total dead weight of 15 tonnes or more;

“new service station” means, in relation to service stations mentioned in paragraph (c), those which are put into operation on or after 1<sup>st</sup> January 2010 and, in relation to service stations mentioned in paragraph (e), those which are put into operation on or after 1<sup>st</sup> January 2012;

“petrol” means any petroleum derivative (other than liquefied petroleum gas), with or without additives, having a Reid vapour pressure of 27.6 kilopascals or more which is intended for use as a fuel for motor vehicles;

“listed date” means 1<sup>st</sup> January 2012 if the throughput is greater than 3500m<sup>3</sup> and 31<sup>st</sup> December 2018 if the throughput is greater than 3000m<sup>3</sup>

“service station” means any premises where petrol is dispensed to motor vehicle fuel tanks from stationary storage tanks but shall not include any service station exclusively used in association with the construction and delivery of new motor vehicles;

“terminal” means any premises which are used for the storage and loading of petrol into road tankers, rail tankers or inland waterway vessels.

2. Any other expressions used in this Part which are also used in Directive 94/63/EC(27) of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations have the same meaning as in that Directive.

## CHAPTER 2

### PRODUCTION AND PROCESSING OF METALS

#### SECTION 2.1

##### FERROUS METALS

#### **Part A**

- (a) Roasting or sintering metal ore, including sulphide ore, or any mixture of iron ore with or without other materials.
- (b) Producing, melting or refining iron or steel or any ferrous alloy, including continuous casting, except where the only furnaces used are—
  - (i) electric arc furnaces with a designed holding capacity of less than 7 tonnes; or
  - (ii) cupola, crucible, reverbatory, rotary, induction, vacuum, electro-slag or resistance furnaces.
- (c) Processing ferrous metals and their alloys by using hot-rolling mills with a production capacity of more than 20 tonnes of crude steel per hour.

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(27) OJNo. L 365, 31.12.1994, p.24

- (d) Loading, unloading or otherwise handling or storing more than 500,000 tonnes in total, in any period of 12 months of iron ore, except in the course of mining operations, or burnt pyrites.
- (e) Producing pig iron or steel, including continuous casting, in a plant with a production capacity of more than 2.5 tonnes per hour unless falling within paragraph (b).
- (f) Operating hammers in a forge, the energy of which is more than 50 kilojoules per hammer, where the calorific power used is more than 20 megawatts.
- (g) Applying protective fused metal coatings with an input of more than 2 tonnes of crude steel per hour.
- (h) Casting ferrous metal at a foundry with a production capacity of more than 20 tonnes per day.

**Part B**

- (a) Casting iron, steel or any ferrous alloy from deliveries of 50 tonnes or more of molten metal, unless falling within Part A of this section.

**Part C**

- (a) Producing pig iron or steel, including continuous casting, in a plant with a production capacity of 2.5 tonnes or less per hour, unless falling within paragraph (b) of Part A of this section.
- (b) Producing, melting or refining iron or steel or any ferrous alloy (other than producing pig iron or steel, including continuous casting) using—
  - (i) one or more electric arc furnaces, none of which has a designed holding capacity of 7 tonnes or more; or
  - (ii) a cupola, crucible, reverberatory, rotary, induction, electro-slag or resistance furnace, unless falling within paragraph (e) or (h) of Part A of this section.
- (c) Desulphurising iron, steel or any ferrous alloy.
- (d) Heating iron, steel or any ferrous alloy (whether in a furnace or other appliance) to remove grease, oil or any other non-metallic contaminant (including such operations as the removal by heat of plastic or rubber covering from scrap cable) unless—
  - (i) it is carried out in one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a rated thermal input of less than 0.2 megawatts;
  - (ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant; and
  - (iii) it is not related to any other activity falling within this Part of this section.

*Interpretation of section 2.1*

1. In this section, “ferrous alloy” means an alloy of which iron is the largest constituent, or equal to the largest constituent, by weight, whether or not that alloy also has a non-ferrous metal content greater than any percentage specified in section 2.2.

*SECTION 2.2*

*NON-FERROUS METALS*

**Part A**

- (a) Producing non-ferrous metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic activities.

- (b) Melting, including making alloys, of non-ferrous metals, including recovered products and the operation of non-ferrous metal foundries where the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals.
- (c) Producing, melting or recovering (whether by chemical means or by electrolysis or by the use of heat) cadmium or mercury or any alloy containing more than 0.05 per cent by weight of either of those metals or, in aggregate, of both.

#### **Part B**

- (a) Melting, including making alloys, of non-ferrous metals (other than tin or any alloy which in molten form contains 50 per cent or more by weight of tin), including recovered products (refining, foundry casting, etc.) in plant with a melting capacity of 4 tonnes or less per day for lead or cadmium or 20 tonnes or less per day for all other metals and where the designed holding capacity of molten metal is 0.5 tonnes or more (together with any additional refining).
- (b) Melting zinc or a zinc alloy in conjunction with a galvanising activity at a rate of 20 tonnes or less per day unless described in Part A of section 2.1.
- (c) Melting zinc, aluminium or magnesium or an alloy of one or more of these metals in conjunction with a die-casting activity at a rate of 20 tonnes or less per day.

#### **Part C**

- (a) Melting, including making alloys, of non-ferrous metals (other than tin or any alloy which in molten form contains 50 per cent or more by weight of tin), including recovered products (refining, foundry casting, etc.) in plant with a melting capacity of 4 tonnes or less per day for lead or cadmium or 20 tonnes or less per day for all other metals and where the designed holding capacity of molten metal is less than 0.5 tonnes (together with any additional refining).
- (b) The heating in a furnace or any other appliance of any non-ferrous metal or non-ferrous metal alloy for the purpose of removing grease, oil or any other non-metallic contaminant, including such operations as the removal by heat of plastic or rubber covering from scrap cable, if not related to another activity described in this Part of this section; but an activity does not fall within this paragraph if—
  - (i) it involves the use of one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a net rated thermal input of less than 0.2 megawatts; and
  - (ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant.
- (c) Unless falling within Part A or B of this section, the separation of copper, aluminium, magnesium or zinc from mixed scrap by differential melting.

#### *Interpretation of Part C*

1. In this Part “net rated thermal input” is the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

#### *Interpretation of section 2.2*

1. In this section “non-ferrous metal alloy” means an alloy which is not a ferrous alloy, as defined in section 2.1.

2. Nothing in paragraph (c) of Part A or in Part B or C of this section shall be taken to refer to the activities of hand soldering, flow soldering or wave soldering.

### SECTION 2.3

#### *SURFACE TREATING METALS AND PLASTIC MATERIALS*

##### **Part A**

- (a) Surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than 30m<sup>3</sup>.

##### **Part B**

- (b) Any process for the surface treatment of metal which is likely to result in the release into air of any acid-forming oxide of nitrogen and which does not fall within Part A of this section.

##### **Part C**

Nil

### CHAPTER 3

#### MINERAL INDUSTRIES

### SECTION 3.1

#### *PRODUCTION OF CEMENT AND LIME*

##### **Part A**

- (a) Producing cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other kilns with a production capacity exceeding 50 tonnes per day.
- (b) Producing lime or magnesium oxide in kilns with a production capacity of more than 50 tonnes per day.

##### **Part B**

- (a) Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready-mixed concrete and the manufacture of concrete blocks and other cement products where the activity is not related to an activity described in paragraph (a) of Part A of this section and is carried on at the same location as an activity described in paragraph (a) of Part B of section 3.5.
- (b) Producing lime where the activity is not likely to involve the heating in any period of 12 months of 5,000 tonnes or more of calcium carbonate or calcium magnesium carbonate or, in aggregate, of both.
- (c) Slaking lime for the purpose of making calcium hydroxide or calcium magnesium hydroxide when related to an activity described in paragraph (b) above.
- (d) Grinding cement clinker not associated with production of cement clinker.
- (e) Unless falling within Part A of section 2.1 or 2.2, grinding metallurgical slag in plant with a grinding capacity of more than 250,000 tonnes in any period of 12 months.

##### **Part C**

- (a) Storing, loading or unloading cement or cement clinker in bulk prior to further transportation in bulk.
- (b) Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready-mixed concrete and the manufacture of concrete blocks and other cement products where the activity is not related to an activity described in paragraph (a) of Part A of this section and is not described in paragraph (a) of Part B of this section.
- (c) Slaking lime for the purpose of making calcium hydroxide or calcium magnesium hydroxide unless related to an activity described in another Part of this Schedule.

### SECTION 3.2

#### ACTIVITIES INVOLVING ASBESTOS

##### Part A

- (a) Producing asbestos or manufacturing products based on or containing asbestos.
- (b) Stripping asbestos from railway vehicles except—
  - (i) in the course of the repair or maintenance of the vehicle;
  - (ii) in the course of recovery operations following an accident; or
  - (iii) where the asbestos is permanently bonded in cement or in any other material (including plastic, rubber or resin).

##### Part B

- (a) The industrial finishing of any of the following products where not related to an activity falling within Part A of this section—
  - (i) asbestos cement;
  - (ii) asbestos cement products;
  - (iii) asbestos fillers;
  - (iv) asbestos filters;
  - (v) asbestos floor coverings;
  - (vi) asbestos friction products;
  - (vii) asbestos insulating board;
  - (viii) asbestos jointing, packaging and reinforcement material;
  - (ix) asbestos packing;
  - (x) asbestos paper or card; or
  - (xi) asbestos textiles.

##### Part C

Nil

##### *Interpretation of section 3.2*

1. In this section “asbestos” includes any of the following fibrous silicates: actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.

### SECTION 3.3

#### MANUFACTURING GLASS AND GLASS FIBRE

##### Part A

- (a) Manufacturing glass or glass fibre where the melting capacity of the plant is more than 20 tonnes a day.

##### Part B

Unless falling within Part A of this section—

- (a) Manufacturing glass at any location where the person concerned has the capacity to make 5,000 tonnes or more of glass in any period of 12 months, and any activity involving the use of glass which is carried out at any such location in conjunction with its manufacture.
- (b) Manufacturing glass where the use of lead or any lead compound is involved.



- (c) Manufacturing any glass product where lead or any lead compound has been used in the manufacture of the glass except—
  - (i) making products from lead glass blanks; or
  - (ii) melting, or mixing with another substance, glass manufactured elsewhere to produce articles such as ornaments or road paint.
- (d) Polishing or etching glass or glass products in the course of any manufacturing activity if—
  - (i) hydrofluoric acid is used; or
  - (ii) hydrogen fluoride may be released into the air.
- (e) Manufacturing glass frit or enamel frit and its use in any activity where that activity is related to its manufacture.

**Part C**

Nil

*SECTION 3.4*

*PRODUCTION OF OTHER MINERAL FIBRES*

**Part A**

- (a) Unless falling within Part A of section 3.3, melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tonnes per day.

**Part B**

Nil.

**Part C**

Nil.

*SECTION 3.5*

*OTHER MINERAL ACTIVITIES*

**Part A**

- (a) Manufacturing cellulose fibre reinforced calcium silicate board using unbleached pulp.

**Part B**

- (a) Unless falling within Part A of any section in this Schedule, the crushing, grinding or other size reduction, other than the cutting of stone, or the grading, screening or heating of any designated mineral or mineral product except where the operation of the activity is unlikely to result in the release into the air of particulate matter.
- (b) Coating road stone with tar or bitumen.
- (c) The fusion of calcined bauxite for the production of artificial corundum.

**Part C**

- (a) Any of the following activities unless carried on at an exempt location—
  - (i) crushing, grinding or otherwise breaking up coal, coke or any other coal product;
  - (ii) screening, grading or mixing coal, coke or any other coal product;
  - (iii) loading or unloading petroleum coke, coal, coke or any other coal product except unloading on retail sale.
- (b) The crushing, grinding or other size reduction, with machinery designed for that purpose, of bricks, tiles or concrete.

- (c) Screening the product of any activity described in paragraph (b).
- (d) Loading, unloading or storing pulverised fuel ash in bulk prior to further transportation in bulk.

*Interpretation of Parts B and C*

**1.** In Parts B and C—

“coal” includes lignite;

“designated mineral or mineral product” means—

- (i) clay, sand and any other naturally occurring mineral other than coal or lignite;
- (ii) metallurgical slag;
- (iii) boiler or furnace ash produced from the burning of coal, coke or any other coal product;
- (iv) gypsum which is a by-product of any activity;

“exempt location” means—

- (i) any premises used for the sale of petroleum coke, coal, coke or any coal product where the throughput of such substances at those premises in any period of 12 months is in aggregate likely to be less than 10,000 tonnes; or
- (ii) any premises to which petroleum coke, coal, coke or any coal product is supplied only for use there;

“retail sale” means sale to the final customer.

**2.** Nothing in this Part applies to any activity carried out underground.

*SECTION 3.6*

*CERAMIC PRODUCTION*

**Part A**

- (a) Manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—
  - (i) the kiln production capacity is more than 75 tonnes per day; or
  - (ii) the kiln capacity is more than 4m<sup>3</sup> and the setting density is more than 300 kg/m<sup>3</sup>.

**Part B**

- (a) Unless falling within Part A of this section, firing heavy clay goods or refractory materials (other than heavy clay goods) in a kiln where a reducing atmosphere is essential or with a production capacity exceeding 50 tonnes per day.
- (b) Vapour glazing earthenware or clay with salts.

**Part C**

- (a) Unless falling within Part A or Part B of this section, firing heavy clay goods or refractory materials (other than heavy clay goods) in a kiln.

*Interpretation of Parts B and C*

**1.** In these Parts—

“clay” includes a blend of clay with ash, sand or other materials;

“refractory material” means material (such as fireclay, silica, magnesite, chrome-magnesite, sillimanite, sintered alumina, beryllia and boron nitride) which is able to withstand high temperatures and to function as a furnace lining or in other similar high temperature applications.

## CHAPTER 4

### THE CHEMICAL INDUSTRY

#### *Interpretation of Chapter 4*

1. In Part A of the sections of this Chapter, “producing” means producing on an industrial scale by chemical or biological processing of substances or groups of substances listed in the relevant sections.

#### SECTION 4.1

##### ORGANIC CHEMICALS

###### **Part A**

- (a) Producing organic chemicals such as—
- (i) hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);
  - (ii) organic compounds containing oxygen, such as alcohols, aldehydes, ketones, carboxylic acids, esters, ethers, peroxides, phenols and epoxy resins;
  - (iii) organic compounds containing sulphur, such as sulphides, mercaptans, sulphonic acids, sulphonates, sulphates and sulphones and sulphur heterocyclics;
  - (iv) organic compounds containing nitrogen, such as amines, amides, nitrous-, nitro- or azo-compounds, nitrates, nitriles, nitrogen heterocyclics, cyanates, isocyanates, di-isocyanates and di-isocyanate prepolymers;
  - (v) organic compounds containing phosphorus, such as substituted phosphines and phosphate esters;
  - (vi) organic compounds containing halogens, such as halocarbons, halogenated aromatic compounds and acid halides;
  - (vii) organometallic compounds, such as lead alkyls, Grignard reagents and lithium alkyls;
  - (viii) plastic materials, such as polymers, synthetic fibres and cellulose-based fibres;
  - (ix) synthetic rubbers;
  - (x) dyes and pigments;
  - (xi) surface-active agents.

###### **Part B**

- (a) Unless falling within Part A of this section, any activity where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12 month period of 5 tonnes or more of any di-isocyanate or of any partly polymerised di-isocyanate or, in aggregate, of both.
- (b) The flame bonding or cutting with heated wires of polyurethane foams or polyurethane elastomers.
- (c) Any activity for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon, where the activity is likely to involve, in any period of 12 months, the polymerisation or co-polymerisation of 100 tonnes or more of unsaturated hydrocarbon.
- (d) Unless falling within Part A of this section, any activity involving the use of toluene di-isocyanate or partly polymerised di-isocyanate if the activity may result in a release into the air which contains toluene di-isocyanate.

###### **Part C**

Nil

*Interpretation of section 4.1*

1. In this section, “pre-formulated resin or pre-formulated gel coat” means any resin or gel coat which has been formulated before being introduced into polymerisation or co-polymerisation activity, whether or not the resin or gel coat contains a colour pigment, activator or catalyst.

*ORGANIC CHEMICALS*

**Part A**

- (a) Producing organic chemicals such as—
- (i) hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);
  - (ii) organic compounds containing oxygen, such as alcohols, aldehydes, ketones, carboxylic acids, esters, ethers, peroxides, phenols and epoxy resins;
  - (iii) organic compounds containing sulphur, such as sulphides, mercaptans, sulphonic acids, sulphonates, sulphates and sulphones and sulphur heterocyclics;
  - (iv) organic compounds containing nitrogen, such as amines, amides, nitrous-, nitro- or azo-compounds, nitrates, nitriles, nitrogen heterocyclics, cyanates, isocyanates, di-isocyanates and di-isocyanate prepolymers;
  - (v) organic compounds containing phosphorus, such as substituted phosphines and phosphate esters;
  - (vi) organic compounds containing halogens, such as halocarbons, halogenated aromatic compounds and acid halides;
  - (vii) organometallic compounds, such as lead alkyls, Grignard reagents and lithium alkyls;
  - (viii) plastic materials, such as polymers, synthetic fibres and cellulose-based fibres;
  - (ix) synthetic rubbers;
  - (x) dyes and pigments;
  - (xi) surface-active agents.

**Part B**

- (a) Unless falling within Part A of this section, any activity where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12 month period of 5 tonnes or more of any di-isocyanate or of any partly polymerised di-isocyanate or, in aggregate, of both.
- (b) The flame bonding or cutting with heated wires of polyurethane foams or polyurethane elastomers.
- (c) Any activity for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon, where the activity is likely to involve, in any period of 12 months, the polymerisation or co-polymerisation of 100 tonnes or more of unsaturated hydrocarbon.
- (d) Unless falling within Part A of this section, any activity involving the use of toluene di-isocyanate or partly polymerised di-isocyanate if the activity may result in a release into the air which contains toluene di-isocyanate.

**Part C**

Nil

*Interpretation of section 4.1*

1. In this section, “pre-formulated resin or pre-formulated gel coat” means any resin or gel coat which has been formulated before being introduced into polymerisation or co-polymerisation activity, whether or not the resin or gel coat contains a colour pigment, activator or catalyst.

## SECTION 4.2

### INORGANIC CHEMICALS

#### Part A

- (a) Producing inorganic chemicals such as—
- (i) gases, such as ammonia, hydrogen chloride, hydrogen fluoride, hydrogen cyanide, hydrogen sulphide, oxides of carbon, sulphur compounds, oxides of nitrogen, hydrogen, oxides of sulphur, phosgene;
  - (ii) acids, such as chromic acid, hydrofluoric acid, hydrochloric acid, hydrobromic acid, hydroiodic acid, phosphoric acid, nitric acid, sulphuric acid, oleum and chlorosulphonic acid;
  - (iii) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;
  - (iv) salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate, cupric acetate, ammonium phosphomolybdate;
  - (v) non-metals, metal oxides, metal carbonyls or other inorganic compounds such as calcium carbide, silicon, silicon carbide, titanium dioxide;
  - (vi) halogens or interhalogen compound comprising two or more of halogens, or any compound comprising one or more of those halogens and oxygen.
- (b) Unless falling within another section of this Schedule, any manufacturing activity (other than the manufacture of chemicals or glass or the coating, plating or surface treatment of metal) which involves the use and may result in the release into the air of any hydrogen halide or any manufacturing activity which uses, or which is likely to result in the release into the air or water of any of the compounds mentioned in paragraph (a)(vi), other than the treatment of water by chlorine.
- (c) Unless falling within another section of this Schedule, any manufacturing activity, other than the application of a glaze or vitreous enamel, involving the use of any of the following elements or compound of those elements or the recovery of any compound of the following elements—
- antimony;
  - arsenic;
  - beryllium;
  - gallium;
  - indium;
  - lead;
  - palladium;
  - platinum;
  - selenium;
  - tellurium;
  - thallium,

where the activity may result in the release into the air of any of those elements or compounds or the release into water of any substance listed in paragraph 10 of Part 2 of this Schedule.

- (d) Recovering any compound of cadmium or mercury.
- (e) Unless falling within another section of this Schedule, any manufacturing activity involving the use of mercury or cadmium or any compound of either element or which may result in the release into air of either of those elements or their compounds.
- (f) Unless falling within another section of this Schedule, any activity, other than the combustion or incineration of carbonaceous material, which is likely to result in the release into the air of any acid-forming oxide of nitrogen.

*Interpretation of Part A*

1. “Carbonaceous material” referred to in (f) includes such materials as charcoal, coke, peat, rubber and wood, (but does not include wood which has not been chemically treated).

**Part B**

Nil.

**Part C**

Nil.

*SECTION 4.3*

*CHEMICAL FERTILISER PRODUCTION*

**Part A**

- (a) Producing (including any blending which is related to their production) phosphorus, nitrogen or potassium based fertilisers (simple or compound fertilisers).

**Part B**

Nil.

**Part C**

Nil.

*SECTION 4.4*

*PLANT PROTECTION PRODUCTS AND BIOCIDES*

**Part A**

- (a) Producing plant protection products or biocides.
- (b) Formulating such products if this may result in the release into water of any substance listed in paragraph 10 of Part 2 of this Schedule in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph for that substance.

**Part B**

Nil.

**Part C**

Nil.

*SECTION 4.5*

*PHARMACEUTICAL PRODUCTION*

**Part A**

- (a) Producing pharmaceutical products, including intermediates.

**Part B**

Nil.

**Part C**

Nil.

*SECTION 4.6*

*EXPLOSIVES PRODUCTION*

**Part A**

- (a) Producing explosives.

**Part B**

Nil.

**Part C**

Nil.

*SECTION 4.7*

*MANUFACTURING ACTIVITIES INVOLVING AMMONIA*

**Part A**

- (a) Any activity for the manufacture of a chemical which may result in the release of ammonia into the air other than an activity in which ammonia is only used as a refrigerant.

**Part B**

Nil.

**Part C**

Nil.

*SECTION 4.8*

*THE STORAGE OF CHEMICALS IN BULK*

**Part A**

Nil.

**Part B**

- (a) The storage in tanks, other than in tanks for the time being forming part of a powered vehicle, of any of the substances listed below except where the total storage capacity of the tanks installed at the location in question in which the relevant substance may be stored is less than the figure specified below in relation to that substance—

|                           |                          |
|---------------------------|--------------------------|
| any one or more acrylates | 20 tonnes (in aggregate) |
| acrylonitrile             | 20 tonnes                |

|                             |               |
|-----------------------------|---------------|
| anhydrous ammonia           | 100 tonnes    |
| anhydrous hydrogen fluoride | 1 tonne       |
| toluene di-isocyanate       | 20 tonnes     |
| vinyl chloride monomer      | 20 tonnes     |
| ethylene                    | 8,000 tonnes. |

**Part C**

Nil

CHAPTER 5

WASTE MANAGEMENT

SECTION 5.1

INCINERATION AND CO-INCINERATION OF WASTE

**Part A**

- (a) The incineration of hazardous waste in a waste incineration plant with a capacity of 10 tonnes or more per day or, unless carried out as part of any other Part A activity, in a waste co-incineration plant with a capacity of 10 tonnes or more per day.
- (b) The incineration of hazardous solid or liquid waste in a waste incineration plant with a capacity of less than 10 tonnes per day or, unless carried out as part of any other Part A activity, in a waste co-incineration plant with a capacity of less than 10 tonnes per day, other than in an excluded plant.
- (c) The incineration of non-hazardous waste in a waste incineration plant with a capacity of 3 tonnes or more per hour or, unless carried out as part of any other Part A activity, in a waste co-incineration plant with a capacity of 3 tonnes or more per hour.
- (d) The incineration of non-hazardous solid or liquid waste in a waste incineration plant with a capacity of less than 3 tonnes per hour or, unless carried out as part of any other Part A activity, in a waste co-incineration plant with a capacity of less than 3 tonnes per hour, other than in an excluded plant.
- (e) The incineration, other than incidentally in the course of burning landfill gas or solid or liquid waste, of any gaseous compound containing halogens
- (f) The incineration of animal carcasses or animal waste with a treatment capacity of more than 10 tonnes per day of animal carcasses or animal waste or, in aggregate, of both.
- (g) Unless described elsewhere in this Part, the incineration of solid or liquid non-hazardous waste in an excluded plant with a capacity of 1 tonne per hour or more, but less than 3 tonnes per hour.
- (h) Unless carried out as part of any other activity in this part, the incineration of a fuel manufactured from a waste in an appliance with a rated thermal input over 3 megawatts.

**Part B**

- (a) The incineration of waste in an incineration plant, which is authorised for the incineration of radioactive waste under section 13 of the Radioactive Substances Act 1993<sup>(28)</sup>.

**Part C**

(28) 1993 c. 12  
O.J.L 300, 14.11.2009, p.1



- (a) Unless described elsewhere in this section, the incineration of non-hazardous solid or liquid waste in an excluded plant but which has a capacity of 50 kilogrammes or more per hour but less than 1 tonne per hour.
- (b) The cremation of human remains.

*Interpretation of section 5.1*

**1.** In this section—

“excluded plant” means—

- (a) a plant treating only the following wastes—
  - (i) vegetable waste from agriculture and forestry;
  - (ii) vegetable waste from the food processing industry, if the heat generated is recovered;
  - (iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;
  - (iv) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood-preservatives or coating, and which includes in particular such wood waste originating from construction and demolition waste;
  - (v) cork waste;
  - (vi) radioactive waste;
  - (vii) animal carcasses as regulated by Regulation (EC) No 1069/2009(b) of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption; or
  - (viii) waste resulting from exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installation;
- (b) an experimental plant used for research, development and testing in order to improve the incineration process and which treats less than 50 tonnes of waste per year; and
- (c) gasification or pyrolysis plants, if the gases resulting from the thermal treatment of waste are purified to such an extent that they are no longer a waste prior to their incineration and they can cause emissions no higher than those resulting from the burning of natural gas.

“fuel” does not include fuel manufactured from waste which ceased to be a waste before being burned as a fuel; and

“incineration” means the thermal treatment of wastes with or without recovery of the combustion heat generated. This includes the incineration by oxidation of waste as well as other thermal treatment processes such as pyrolysis, gasification or plasma processes in so far as the substances resulting from the treatment are subsequently incinerated.

*SECTION 5.2*

*DISPOSAL OF WASTE BY LANDFILL*

**Part A**

- (a) The disposal of waste in a landfill receiving more than 10 tonnes of waste in any day or with a total capacity of more than 25,000 tonnes, excluding disposals in landfills taking only inert waste.
- (b) The disposal of waste in any other landfill.

**Part B**

Nil

**Part C**

Nil

*SECTION 5.3*

*DISPOSAL OR RECOVERY OF HAZARDOUS WASTE  
OTHER THAN BY INCINERATION OR LANDFILL*

**Part A**

- (a) Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving one or more of the following activities—
- (i) biological treatment;
  - (ii) physico-chemical treatment;
  - (iii) blending or mixing prior to submission to any of the other activities listed in sections 5.1 (a) and (c) and this section;
  - (iv) repackaging prior to submission to any of the other activities listed in sections 5.1 (a) and (c) and this section;
  - (v) solvent reclamation/regeneration;
  - (vi) recycling/reclamation of inorganic materials other than metals or metal compounds;
  - (vii) regeneration of acids or bases;
  - (viii) recovery of components used for pollution abatement;
  - (ix) recovery of components from catalysts;
  - (x) oil re-refining or other reuses of oil;
  - (xi) surface impoundment.

**Part B**

Nil.

**Part C**

Nil.

*SECTION 5.4*

*DISPOSAL OR RECOVERY OF NON-HAZARDOUS WASTE*

**Part A**

- (a) Disposal of non-hazardous waste with a capacity exceeding 50 tonnes per day involving one or more of the following activities, (but excluding activities covered by Council Directive 91/271/EEC(29) of 21 May 1991 concerning urban waste-water treatment)—
- (i) biological treatment;
  - (ii) physico-chemical treatment;
  - (iii) pre-treatment of waste for incineration or co-incineration;
  - (iv) treatment of slags and ashes;
  - (v) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

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(29) O.J.L 135, 30.5.1991, p.40

- (b) Recovery, or a mix of recovery and disposal, of non-hazardous waste with a capacity exceeding 75 tonnes per day involving one or more of the following activities, (but excluding activities covered by Directive 91/271/EEC)—
  - (i) biological treatment;
  - (ii) pre-treatment of waste for incineration or co-incineration;
  - (iii) treatment of slags and ashes;
  - (iv) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.
- (c) When the only waste treatment activity carried out is anaerobic digestion, the capacity threshold for this activity shall be 100 tonnes per day.

**Part B**

Nil.

**Part C**

Nil.

*SECTION 5.5*

*TEMPORARY AND UNDERGROUND STORAGE OF WASTE*

**Part A**

- (a) Temporary storage of hazardous waste not covered under section 5.2 pending any of the activities listed in sections 5.1, 5.2, 5.3 and paragraph (b) of this section with a total capacity exceeding 50 tonnes, excluding temporary storage, pending collection, on the site where the waste is generated.
- (b) Underground storage of hazardous waste with a total capacity exceeding 50 tonnes.

**Part B**

Nil.

**Part C**

Nil.

CHAPTER 6

OTHER ACTIVITIES

*SECTION 6.1*

*PAPER, PULP AND BOARD MANUFACTURING ACTIVITIES*

**Part A**

- (a) Producing, in industrial plant, pulp from timber or other fibrous materials.
- (b) Producing, in industrial plant, paper and card board where the plant has a production capacity of more than 20 tonnes per day.
- (c) Production of one or more of the following wood-based panels: oriented strand board, particleboard or fibreboard with a production capacity exceeding 600 m<sup>3</sup> per day.

**Part B**

Nil.

**Part C**

Nil.

## SECTION 6.2

### CARBON ACTIVITIES

#### Part A

- (a) Producing carbon or hard-burnt coal or electro graphite by means of incineration or graphitisation.

#### Part B

Nil.

#### Part C

Nil.

## SECTION 6.3

### TAR AND BITUMEN ACTIVITIES

#### Part A

- (a) Distilling tar or bitumen in connection with any process of manufacture where the carrying out of the activity by the person concerned at the location in question is likely to involve the use in any period of 12 months of 5 tonnes or more of tar or of bitumen or, in aggregate, of both.

#### Part B

- (a) Any activity not falling within Part A of this section or of section 6.2 involving—
  - (i) heating, but not distilling, tar or bitumen in connection with any manufacturing activity; or
  - (ii) oxidising bitumen by blowing air through it, at plant where no other activities described in any section in this Schedule are carried out,where the carrying out of the activity is likely to involve the use in any period of 12 months of 5 tonnes or more of tar or of bitumen or, in aggregate, of both.

#### *Interpretation of Part B*

1. In this Part “tar” and “bitumen” include pitch.

#### Part C

Nil

## SECTION 6.4

### COATING ACTIVITIES, PRINTING AND TEXTILE TREATMENTS

#### Part A

- (a) Pre-treating (by operations such as washing, bleaching or mercerisation) or dyeing fibres or textiles in plant with a treatment capacity of more than 10 tonnes per day.
- (b) Surface treating substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, in plant with a consumption capacity of more than 150 kg per hour or more than 200 tonnes per year.

#### Part B

- (a) Unless falling within Part A of this section or paragraph (g) of Part A of section 2.1, any activity (other than for the repainting or respraying of road vehicles or parts of road vehicles), involving the repainting or respraying of or of parts of aircraft or railway vehicles where the carrying on of the activity may result in the release into the air of particulate matter or of any volatile organic compound and is likely to involve the use in any period of 12 months of—
  - (i) 400 tonnes or more of printing ink, paint or other coating material which is applied in solid form; or
  - (ii) 400 tonnes or more of any metal coating which is sprayed on in molten form.
- (b) Unless falling within Part A of this section or paragraph (g) of Part A of section 2.1, any activity (other than for the repainting or respraying of road vehicles or parts of road vehicles), involving the application to a substrate of, or the drying or curing after such applications of, printing ink or paint or any other coating material as, or in the course of, a manufacturing activity where the carrying on of the activity may result in the release into the air of particulate matter or of any volatile organic compound and is likely to involve the use in any period of 12 months of—
  - (i) 400 tonnes or more of printing ink, paint or other coating material which is applied in solid form; or
  - (ii) 400 tonnes or more of any metal coating which is sprayed on in molten form.

### **Part C**

- (a) Unless falling within Part A or Part B of this section or paragraph (g) of Part A of section 2.1, any process (other than for the repainting or respraying of, or of parts of, aircraft or road or railway vehicles) for applying to a substrate, or drying or curing after such application, printing ink or paint or any other coating material as, or in the course of, a manufacturing activity, where the process may result in the release into the air of particulate matter or of any volatile organic compound and is likely to involve the use in any period of 12 months of—
  - (i) 20 tonnes or more of printing ink, paint or other coating material which is applied in solid form;
  - (ii) 20 tonnes or more of any metal coating which is sprayed on in molten form;
  - (iii) 25 tonnes or more of organic solvents in respect of any cold set web offset printing activity or any sheet fed offset litho printing activity; or
  - (iv) 5 tonnes or more of organic solvents in respect of any activity not mentioned in subparagraph (iii).
- (b) Unless falling within Part A of this section, repainting or respraying road vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use of 1 tonne or more of organic solvents in any period of 12 months.
- (c) Repainting or respraying aircraft or railway vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying out of the activity is likely to involve the use in any period of 12 months of—
  - (i) 20 tonnes or more of any paint or other coating material which is applied in solid form;
  - (ii) 20 tonnes or more of any metal coatings which are sprayed on in molten form; or
  - (iii) 5 tonnes or more of organic solvents.

### *Interpretation of Parts B and C*

1. In this Part—

“aircraft” includes gliders and missiles;

“coating material” means paint, printing ink, varnish, lacquer, dye, any metal oxide coating, any adhesive coating, any elastomer coating, any metal or plastic coating and any other coating material.

2. The amount of organic solvents used in an activity shall be calculated as—

- (a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents used for cleaning or other purposes; less
- (b) any organic solvents that are removed from the process for re-use or for recovery for re-use.

*SECTION 6.5*

*THE MANUFACTURE OF DYESTUFFS, PRINTING INK AND COATING MATERIALS*

**Part A**

Nil.

**Part B**

- (a) Unless falling within Part A of any section in this Schedule—
  - (i) manufacturing or formulating printing ink or any other coating material containing, or involving the use of, an organic solvent, where the carrying out of the activity is likely to involve the use of 200 tonnes or more of organic solvents in any period of 12 months;
  - (ii) manufacturing any powder for use as a coating material where the process uses lead chromate or triglycidyl isocyanurate and where there is the capacity to produce 400 tonnes or more of such powder in any period of 12 months.

**Part C**

- (a) Unless falling within Part A or Part B of any section in this Schedule—
  - (i) manufacturing or formulating printing ink or any other coating material containing, or involving the use of, an organic solvent, where the carrying out of the activity is likely to involve the use of 100 tonnes or more, but less than 200 tonnes of organic solvents in any period of 12 months;
  - (ii) manufacturing any powder for use as a coating material where the process uses lead chromate or triglycidyl isocyanurate and where there is the capacity to produce 200 tonnes or more, but less than 400 tonnes of such powder in any period of 12 months.

*Interpretation of Parts B and C*

1. In this Part, “coating material” has the same meaning as in section 6.4.
2. The amount of organic solvents used in an activity shall be calculated as—
  - (i) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents for cleaning or other purposes; less
  - (ii) any organic solvents, not contained in coating materials, that are removed from the process for re-use or for recovery for re-use.

## SECTION 6.6

### TIMBER ACTIVITIES

#### Part A

- (a) Curing, or chemically treating, as part of a manufacturing process, timber or products wholly or mainly made from wood if any substance listed in paragraph 10 of Part 2 of this Schedule is used.
- (b) Preservation of wood and wood products with chemicals with a production capacity exceeding 75 m<sup>3</sup> per day other than exclusively treating against sapstain.

#### Part B

Nil.

#### Part C

- (a) Unless falling within Part A of section 6.1, manufacturing products wholly or mainly of wood at any works if the activity involves the sawing, drilling, sanding, shaping, turning, planning, curing or chemical treatment of wood (“relevant activities”) and the throughput of the works in any period of 12 months is likely to be more than—
  - (i) 10,000 cubic metres, in the case of works at which wood is sawed but at which wood is not subjected to any other relevant activities or is subjected only to relevant activities which are exempt activities; or
  - (ii) 1,000 cubic metres in any other case.

#### Interpretation of Part C

##### 1. In this Part—

“relevant activities” other than sawing are “exempt activities” where, if no sawing were carried out at the works, the activities carried out there would be unlikely to result in the release into the air of any substances listed in paragraph 9 of Part 2 of this Schedule in a quantity which is capable of causing a significant negative effect on human health or the environment;

“throughput” shall be calculated by reference to the amount of wood which is subjected to any of the relevant activities, but where, at the same works, wood is subject to two or more relevant activities, no account shall be taken of the second or any subsequent activity;

“wood” includes any product consisting wholly or mainly of wood; and

“works” includes a sawmill or any other premises on which relevant activities are carried out on wood.

## SECTION 6.7

### ACTIVITIES INVOLVING RUBBER

#### Part A

- (a) Manufacturing new tyres (but not remoulds or retreads) if this involves the use in any period of 12 months of 50,000 tonnes or more of one or more of the following—
  - (i) natural rubber;
  - (ii) synthetic organic elastomers;
  - (iii) other substances mixed with them.

#### Part B

- (a) The curing of foam rubber products where hydrogen sulphide is released.

#### Part C

- (a) Unless falling within Part A or B of any section in this Schedule, the mixing, milling or blending of—
  - (i) natural rubber; or
  - (ii) synthetic organic elastomers,if carbon black is used.
- (b) Any activity which converts the product of an activity falling within paragraph (a) into a finished product if related to an activity falling within that paragraph.

## SECTION 6.8

### THE TREATMENT OF ANIMAL AND VEGETABLE MATTER AND FOOD INDUSTRIES

#### Part A

- (a) Tanning hides and skins at plant with a treatment capacity of more than 12 tonnes of finished products per day.
- (b) Slaughtering animals at plant with a carcass production capacity of more than 50 tonnes per day.
- (c) Disposing of or recycling animal carcasses or animal waste otherwise than by incineration falling within section 5.1 in plant with a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or, in aggregate, of both.
- (d) Treatment and processing, other than exclusively packaging, of the following raw materials, whether previously processed or unprocessed, intended for the production of food or feed from—
  - (i) only animal raw materials (other than milk) at plant with a finished product production capacity of more than 75 tonnes per day;
  - (ii) only vegetable raw materials at plant with a finished product production capacity greater than 300 tonnes per day or 600 tonnes per day where the installation operates for a period of no more than 90 consecutive days in any year;
  - (iii) animal and vegetable raw materials, both in combined and separate products, with a finished product production capacity in tonnes per day greater than—
    - (aa) 75 if A is equal to 10 or more;
    - (bb)  $300 - (22.5 \times A)$  in any other case; or
    - (cc) where 'A' is the portion of animal material (in % of weight) of the finished product production capacity;where, when calculating the weight of finished product for the purposes of paragraphs (i) to (iii), the weight of packaging must be ignored.
- (e) Treating and processing milk, the quantity of milk received being more than 200 tonnes per day (average value on an annual basis).

#### Part B

- (a) Unless falling within Part A of this section, treating feathers by hydrolysis where hydrogen sulphide or other sulphur containing compounds may be released into the air.

#### Part C

- (a) Processing, storing or drying by the application of heat of the whole or part of any dead animal or any vegetable matter (other than the treatment of effluent so as to permit its discharge into waterways, underground strata or into a sewer unless the treatment involves the drying of any material with a view to its use as animal feedstuff) if—



- (i) the processing, storing or drying does not fall within another section of this Schedule or Part A or B of this section and is not an exempt activity; and
  - (ii) the processing, storing or drying may result in the release into the air of a substance described in paragraph 9 of Part 2 of this Schedule or any offensive smell noticeable outside the premises on which the activity is carried out.
- (b) Breeding maggots in any case where 5 kg or more of animal matter or of vegetable matter or, in aggregate, of both are introduced into the process in any week.

#### *Interpretation of section 6.8*

##### 1. In this section—

“animal” includes a bird or a fish;

“exempt activity” means—

- (i) any activity carried out in a farm or agricultural holding other than the manufacture of goods for sale;
  - (ii) the manufacture or preparation of food or drink for human consumption but excluding—
    - (aa) the extraction, distillation or purification of animal or vegetable oil or fat otherwise than as a activity incidental to the cooking of food for human consumption;
    - (bb) any activity involving the use of green offal or the boiling of blood except the cooking of food (other than tripe) for human consumption;
    - (cc) the cooking of tripe for human consumption elsewhere than on premises on which it is to be consumed;
  - (iii) the fleshing, cleaning and drying of pelts of fur-bearing mammals;
  - (iv) any activity carried on in connection with the operation of a knackers yard, as defined in the Animal By-Products Order (Northern Ireland) 2002<sup>(30)</sup>;
  - (v) any activity for the manufacture of soap not falling within Part A of section 4.1;
  - (vi) the storage of vegetable matter not falling within any other section of this Schedule;
  - (vii) the cleaning of shellfish shells;
  - (viii) the manufacture of starch;
  - (ix) the processing of animal or vegetable matter at premises for feeding a recognised pack of hounds registered under the Animal By-Products Order (Northern Ireland) 2002;
  - (x) the salting of hides or skins, unless related to any other activity listed in this Schedule;
  - (xi) any activity for composting animal or vegetable matter or a combination of both, except where that activity is carried on for the purposes of cultivating mushrooms;
  - (xii) any activity for cleaning, and any related activity for drying or dressing seeds, bulbs, corms or tubers;
  - (xiii) the drying of grain or pulses;
  - (xiv) any activity for the production of cotton yarn from raw cotton or for the conversion of cotton yarn into cloth;
  - (xv) the drying of green crops;
- “food” includes—
- (i) drink;

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<sup>(30)</sup> S.R. 2002 No. 209

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Northern Ireland Statutory Rule: The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 No. 160

- (ii) articles and substances of no nutritional value which are used for human consumption; and
- (iii) articles and substances used as ingredients in the preparation of food;  
“green crops” means alfalfa (Lucerne), clover, grass, perennial ryegrass, tall fescue and other similar crops;  
“green offal” means the stomach and intestines of any animal, other than poultry or fish, and their contents;  
“underground strata” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999<sup>(31)</sup>;  
“waterways” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999.

#### SECTION 6.9

##### INTENSIVE FARMING

###### Part A

- (a) Rearing poultry or pigs intensively in an installation with more than:
  - (i) 40,000 places for poultry;
  - (ii) 2,000 places for production pigs (over 30 kg); or
  - (iii) 750 places for sows.

###### Part B

Nil.

###### Part C

Nil.

###### Interpretation of section 6.9

1. The conditions of permits relating to Intensive Agriculture under this section shall apply without prejudice to the legislation relating to animal welfare.

#### SECTION 6.10

##### CARBON CAPTURE AND STORAGE

###### Part A

- (a) Capture of carbon dioxide streams from an installation for the purposes of geological storage pursuant to Directive 2009/31/EC<sup>(32)</sup> of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide.

###### Part B

Nil.

###### Part C

Nil.

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(31) S.I. 1999/662 (N.I. 6)

(32) O.J. L140, 5.6.2009, p.114

*SECTION 6.11*

*WASTE WATER TREATMENT*

**Part A**

- (a) Independently operated treatment of waste water not covered by Directive 91/271/EEC and discharged by a Part A installation or Part A mobile plant.

**Part B**

Nil.

**Part C**

Nil.

CHAPTER 7

SOLVENT EMISSIONS

*SECTION 7*

*SED ACTIVITIES*

**Part A**

Nil

**Part B**

Nil

**Part C**

- (a) The activities listed in the table below if they are operated above the solvent consumption thresholds for that activity.

| <b>Activity</b>  | <b>Solvent consumption threshold in tonnes/<br/>year</b> |
|--|--|
| Heatset web offset printing  | 15   |
| Publication rotogravure  | 25   |
| Other rotogravure, flexography, rotary screen printing, laminating or varnishing units   | 15   |
| Rotary screen printing on textile/cardboard  | 30   |
| Surface cleaning using specified substances or mixtures  | 1  |
| Other surface cleaning   | 2  |
| Vehicle coating and vehicle refinishing  | 0.5  |
| Coil coating   | 25   |
| Other coating activities, including metal, plastic, textile (except rotary screen printing on textile), fabric, film and paper coating | 5  |
| Winding wire coating   | 5  |
| Coating activity applied to wooden surfaces  | 15   |
| Dry cleaning   | 0  |

| <b>Activity</b>   | <b>Solvent consumption threshold in tonnes/<br/>year</b> |
|---|--|
| Wood impregnation   | 25   |
| Coating activity applied to leather   | 10   |
| Footwear manufacture  | 5  |
| Wood and plastic lamination   | 5  |
| Adhesive coating  | 5  |
| Manufacture of coating mixtures, varnishes, inks and adhesives                | 100  |
| Rubber conversion   | 15   |
| Vegetable oil and animal fat extraction and vegetable oil refining activities | 10   |
| Manufacturing of pharmaceutical products                                      | 50   |

#### *Interpretation of Part C*

1. Expressions used both in this Part and in Chapter V of the IED have the same meaning for the purposes of this Part as they have for the purposes of that Directive.

2. For the purposes of this Part—

“adhesive” means any mixture, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used to adhere separate parts of a product;

“adhesive coating” means any activity in which an adhesive is applied to a surface excluding the application of adhesive and laminating associated with printing activities;

“coating activity” means any activity in which a single or a multiple application of a continuous film of a coating is applied (including a step in which the same article is printed using any technique) but does not include the coating of substrate with metals by electrophoretic and chemical spraying techniques;

“coil coating” means any activity where coiled steel, stainless steel, coated steel copper alloys or aluminium strip is coated with either a film forming or laminate coating in a continuous process;

“consumption” means the total input of organic solvents into an installation per calendar year, or any other twelve month period, less any volatile organic compounds that are recovered for re-use;

“dry cleaning” means any industrial or commercial activity using volatile organic compounds to clean garments, furnishing and similar consumer goods excluding the manual removal of stains and spots in the textile and clothing industry;

“flexography” means a printing activity using an image carrier of rubber or elastic photopolymers on which the printing areas are above the non-printing areas and liquid inks which dry through evaporation;

“footwear manufacture” means any activity of producing complete footwear or parts of footwear;

“halogenated organic solvent” means an organic solvent which contains at least one atom of bromine, chlorine, fluorine or iodine per molecule;

“heat web offset printing” means a web-fed printing activity using an image carrier in which the printing and non-printing area are in the same plane, where—

- (i) the non-printing area is treated to attract water and reject ink;
- (ii) the printing area is treated to receive and transmit ink to the surface to be printed; and
- (iii) evaporation takes place in the oven where hot air is used to heat the printed material.

“ink” means a mixture, including all the organic solvents or mixtures containing organic solvents necessary for its proper application which is used in a printing activity to impress text or images on to a surface;

“laminating associated to a printing activity” means the adhering together of two or more flexible materials to produce laminates;

“manufacturing of coating mixtures, varnishes, inks and adhesives” means the manufacture of coating mixtures, varnishes, inks and adhesives as final products and where carried out at the same site the manufacture of intermediates by the mixing of pigments, resins and adhesive materials with organic solvent or other carrier, including—

- (i) dispersion and predispersion activities;
- (ii) viscosity and tint adjustments; and
- (iii) operations for filling the final product into its container;

“manufacturing of pharmaceutical products” means one or more of the following activities—

- (i) the chemical synthesis;
- (ii) fermentation;
- (iii) extraction;
- (iv) formulation; or
- (v) finishing of pharmaceutical products and where carried out at the same site, the manufacture of intermediate products;

“other coating activities” means a coating activity applied to—

- (i) trailers, defined in categories O1, O2, O3 and O4 in Directive [70/156/EEC\(33\)](#) of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers;
- (ii) metallic and plastic surfaces including the surfaces of airplanes, ships and trains; and
- (iii) textile, fabric, film and paper surfaces;

“printing activity” means any activity (not being a step in a coating activity) for reproducing text and/or images in which, with the use of an image carrier, ink is transferred on to any type of surface, including the use of associated varnishing, coating and laminating techniques;

“publication rotogravure” means a rotogravure printing activity used for printing paper for magazines, brochures, catalogues or similar products, using toluene-based inks;

“reuse” means the use of organic solvents recovered from an installation for any technical or commercial purpose and including use as a fuel but excluding the final disposal of such recovered organic solvent as waste;

“rotary screen printing” means a web-fed printing activity in which liquid ink which dries only through evaporation is passed on to the surface to be printed by forcing it through a porous image carrier, in which the printing area is open and the non-printing area is sealed off;

“rotogravure” means a printing activity using a cylindrical image carrier in which the printing area is below the non-printing area and liquid inks which dry through evaporation in which the recesses are filled with ink and the surplus is cleaned off the non-printing area before the surface to be printed contacts the cylinder and lifts the ink from the recesses;

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(33) O.J. No.L42, 23.2.1970 p. 1 as amended by Directive [97/27/EC](#) (O.J. No. 233, 25.8.1997, p. 1)

“rubber conversion” means—

- (i) any activity of mixing, milling, blending, calendaring, extrusion and vulcanisation of natural or synthetic rubber; and
- (ii) any ancillary operations for converting natural or synthetic rubber into a finished product;

“specified substances or mixtures” mean—

- (i) until 1<sup>st</sup> June 2015—
  - (aa) any substances or mixtures which because of their content of volatile organic compounds are classified as carcinogens, mutagens, or toxic to reproduction and are assigned or need to carry the risk phrases R45, R46, R49, R60 or R61, or under Regulation (EC) No 1272/2008, are assigned or need to carry the hazard statement H340, H350, H350i, H360D, or H360F; and
  - (bb) halogenated organic compounds which are assigned or need to carry the risk phrases R40 or R68 or the hazard statements H341 or H351; or
- (ii) from 1<sup>st</sup> June 2015, any substances or mixtures which because of their content of volatile organic compounds are classified as carcinogens, mutagens, or toxic to reproduction under Regulation (EC) No 1272/2008(34), and are assigned or need to carry the hazard statement H340, H350, H350i, H360D or H360F or halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 or H351;

“surface cleaning” means any activity, except dry cleaning, using organic solvents to remove contamination from the surface of material including degreasing but excluding the cleaning of equipment; and a cleaning activity consisting of more than one step before or after any other activity shall be considered as one surface cleaning activity;

“vehicle coating” means a coating activity applied to the following vehicles—

- (i) new cars, defined as vehicles of category M1 in Directive 70/156/EEC, and of category N1 in so far as they are coated at the same installation as M1 vehicles;
- (ii) truck cabins, defined as the housing for the driver, and all integrated housing for the technical equipment, of vehicles of categories N2 and N3 in Directive 70/156/EEC;
- (iii) vans and trucks, defined as vehicles of categories N1, N2 and N3 in Directive 70/156/EEC, but not including truck cabins; or
- (iv) buses, defined as vehicles in categories M2 and M3 in Directive 70/156/EEC;

“varnish” means a transparent coating;

“varnishing” means an activity by which varnish or an adhesive coating for the purpose of sealing the packaging material is applied to a flexible material;

“vegetable oil and animal fat extraction and vegetable oil refining activities” means any activity to extract vegetable oil from seeds and other vegetable matter, the processing of dry residues to produce animal feed, the purification of fats and vegetable oils derived from seeds, vegetable matter or animal matter;

“vehicle refinishing” means any industrial or commercial coating activity and associated degreasing activities performing—

- (i) the original coating of road vehicles as defined in Directive 70/156/EEC or part of them with refinishing-type materials, where this is carried out away from the original manufacturing line; or
- (ii) the coating of trailers (including semi-trailers) (category O);

(34) O.J. No.L353, 31.12.2008, p.1

“web-fed” means that the material to be printed is fed to the machine from a reel as distinct from separate sheets;

“winding wire coating” means any coating activity of metallic conductors used for winding the coils in transformers and motors, etc;

“wood and plastic lamination” means any activity to adhere together wood or plastic to produce laminated products;

“wood impregnation” means any activity giving a loading of preservative in timber.

## PART 2

### INTERPRETATION OF PART 1

1. The following rules apply for the interpretation of Part 1 of this Schedule.

2.—(1) Subject to sub-paragraph (2), an activity shall not be taken to be a Part B or Part C activity if it cannot result in the release into the air of a substance listed in paragraph 9 or there is no likelihood that it will result in the release into the air of any such substance except in a quantity which is so trivial that it is incapable of causing pollution or its capacity to cause pollution is insignificant.

(2) Sub-paragraph (1) shall not apply to—

- (a) a SED activity; or
- (b) an activity which may give rise to an offensive smell noticeable outside the site where the activity is carried out.

3. An activity shall not be taken to be an activity falling within sections 1.1 to 7 of Part 1 if it is—

- (a) carried out in a working museum to demonstrate an industrial activity of historic interest or if it is carried out for educational purposes in a school as defined by Article 2(1) of the Education and Libraries (Northern Ireland) Order 1986<sup>(35)</sup>;
- (b) carried out at an installation or mobile plant solely used for research, development and testing of new products and processes;
- (c) the running on or within an aircraft, hovercraft, mechanically propelled road vehicle, railway locomotive or ship or other vessel of an engine which propels or provides electricity for it;
- (d) the running of an engine in order to test it before it is installed or in the course of its development; or
- (e) carried out as a domestic activity in connection with a private dwelling.

4. An activity listed in section 7 of Part 1 shall include the cleaning of equipment but, except for a surface cleaning activity, not the cleaning of products.

5. References in Part 1 to related activities are references to separate activities being carried out by the same person on the same site.

6.—(1) This paragraph applies for the purpose of determining whether an activity carried out in a stationary technical unit falls within a description in Part A which refers to capacity, other than design holding capacity.

(2) Where a person carries out several activities falling within the same description in Part A in different parts of the same stationary technical unit or in different stationary technical units on the same site, the capacities of each part or unit shall be added together and the total capacity shall be

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(35) S.I. 1986/594 (N.I. 3)

attributed to each part or unit for the purpose of determining whether the activity carried out in each part or unit falls within a description in Part A.

(3) For the purpose of sub-paragraph (2), no account shall be taken of capacity when determining whether activities fall within the same description.

(4) Where an activity falls within a description in Part A by virtue of this paragraph it shall not be taken to be an activity falling within a description in Part B or Part C (other than a description in section 7).

7.—(1) Where an activity falls within a description in Part A and a description in Part B that activity shall be regarded as falling only within the description in Part A.

(2) Where an activity falls within a description in Part A and a description in Part C (other than a description in section 7) that activity shall be regarded as falling only within the description in Part A.

(3) Where an activity falls within a description in Part B and a description in Part C (other than a description in section 7) that activity shall be regarded as falling only within that description which fits it most aptly.

**8. In Part 1—**

“background quantity” means, in relation to the release of a substance resulting from an activity, such quantity of that substance as is present in—

- (i) water supplied to the site where the activity is carried out;
- (ii) water abstracted for use in the activity; and
- (iii) precipitation onto the site on which the activity is carried out;

“Part A activity” means an activity falling within Part A of any section in Part 1;

“Part B activity” means an activity falling within Part B of any section in Part 1;

“Part C activity” means an activity falling within Part C of any section in Part 1.

9. References to, or to the release into the air of, a substance listed in this paragraph are to any of the following substances—

- (a) oxides of sulphur and other sulphur compounds;
- (b) oxides of nitrogen and other nitrogen compounds;
- (c) oxides of carbon;
- (d) organic compounds and partial oxidation products;
- (e) metals, metalloids and their compounds;
- (f) asbestos (suspended particulate matter and fibres), glass fibres and mineral fibres;
- (g) halogens and their compounds;
- (h) phosphorus and its compounds;
- (i) particulate matter.

10. References to, or to the release into water of, a substance listed in this paragraph or to its release in a quantity which, in any period of 12 months, is greater than the background quantity by an amount specified in this paragraph are to the following substances and amounts—

| <i>Substance</i>          | <i>Amount greater than the background quantity (in grammes) in any period of 12 months</i> |
|---------------------------|--|
| Mercury and its compounds | 200 (expressed as metal)   |
| Cadmium and its compounds | 1,000 (expressed as metal)   |



| <i>Substance</i>                     | <i>Amount greater than the background quantity (in grammes) in any period of 12 months</i> |
|--------------------------------------|--|
| All isomers of hexachlorocyclohexane | 20   |
| All isomers of DDT                   | 5  |
| Pentachlorophenol and its compounds  | 350 (expressed as PCP)   |
| Hexachlorobenzene                    | 5  |
| Hexachlorobutadiene                  | 20   |
| Aldrin                               | 2  |
| Dieldrin                             | 2  |
| Endrin                               | 1  |
| Polychlorinated Biphenyls            | 1  |
| Dichlorvos                           | 0.2  |
| 1,2 – Dichloroethane                 | 2,000  |
| All isomers of trichlorobenzene      | 75   |
| Atrazine                             | 350*   |
| Simazine                             | 350*   |
| Tributyltin compounds                | 4 (expressed as TBT)   |
| Triphenyltin compounds               | 4 (expressed as TPT)   |
| Trifluralin                          | 20   |
| Fenitrothion                         | 2  |
| Azinphos-methyl                      | 2  |
| Malathion                            | 2  |
| Endosulfan                           | 0.5  |

\*Where both Atrazine and Simazine are released, the figure for both substances in aggregate is 350 grammes.

**11.—(1)** References to a substance listed in this paragraph are to any of the following substances—

- (a) alkali metals and their oxides and alkaline earth metals and their oxides;
- (b) organic solvents;
- (c) azides;
- (d) halogens and their covalent compounds;
- (e) metal carbonyls;
- (f) organo-metallic compounds;
- (g) oxidising agents;
- (h) polychlorinated dibenzofuran and any congener thereof;
- (i) polychlorinated dibenzo-p-dioxin and any congener thereof;

- (j) polyhalogenated biphenyls, terphenyls and naphthalenes;
- (k) phosphorus;
- (l) pesticides.

(2) In sub-paragraph (1), “pesticide” means any chemical substance or mixture prepared or used for destroying any pest, including those used for protecting plants or wood or other plant products from harmful organisms, regulating the growth of plants, giving protection against harmful creatures, rendering such creatures harmless, controlling organisms with harmful or unwanted effects on water systems, buildings or other structures, or on manufactured products, or protecting animals against ectoparasites.

### PART 3

#### INTERPRETATION OF “PART A INSTALLATION” ETC.

**12.** For the purpose of these Regulations—

“Part A installation” means an installation where a Part A activity is carried out (including such an installation where a Part B or Part C activity is also carried out);

“Part B installation” means an installation where a Part B activity is carried out, not being a Part A installation (including such an installation where a Part C activity is also carried out);

“Part C installation” means an installation where a Part C activity is carried out, not being a Part A installation or Part B installation.

**13.** For the purpose of these Regulations—

“Part A mobile plant” means mobile plant used to carry out a Part A activity (including such plant which is also used to carry out a Part B or Part C activity);

“Part B mobile plant” means mobile plant used to carry out a Part B activity, not being Part A mobile plant;

“Part C mobile plant” means mobile plant used to carry out a Part C activity, not being Part A mobile plant or Part B mobile plant.

**14.** A Part B installation where an activity falling within paragraph (a) of Part B of section 2.2, or a Part C installation, where an activity falling within paragraph (c) of Part C of section 2.2 is carried out, does not include any location where the associated storage or handling of scrap which is to be heated as part of that activity is carried out, other than a location where scrap is loaded into a furnace.

**15.** A Part B installation where an activity falling within paragraph (a) of Part B of section 5.1 or a Part C installation, where an activity falling within paragraph (a) or (b) of Part C of section 5.1 is carried out, does not include any location where the associated storage or handling of wastes and residues which are to be incinerated as part of that activity is carried out, other than a location where the associated storage or handling of animal remains, intended for burning in an incinerator used wholly or mainly for the incineration of such remains or residues from the burning of such remains in such an incinerator, is carried out.

**16.—(1)** A Part B or Part C installation where an activity falling within Part B or Part C of section 6.4 is carried out, does not include any location where the associated cleaning of used storage drums prior to painting or their incidental handling in connection with such cleaning is carried out.

(2) Sub-paragraph (1) shall not apply where the location referred to in that sub-paragraph forms part of a SED installation.

**17.** Where an installation is a Part A installation, a Part B installation or a Part C installation by virtue of the carrying out of an activity which is only carried out during part of a year, that installation

shall not cease to be such an installation during the parts of the year when that activity is not being carried out.

**18.** Where an installation is authorised by a permit granted under these Regulations to carry out Part A activities, Part B activities or Part C activities which are described in Part 1 by reference to a threshold (whether in terms of capacity or otherwise), the installation shall not cease to be a Part A installation, a Part B installation or a Part C installation by virtue of the installation being operated below the relevant threshold, unless the permit ceases to have effect in accordance with these Regulations.

**19.** In this Part, “Part A activity”, “Part B activity” and “Part C activity” have the meaning given by paragraph 8 in Part 2.

## SCHEDULE 2

Regulation 3

### BEST AVAILABLE TECHNIQUES

**1.** Subject to paragraph 2, in determining BAT, special consideration shall be given to the following matters, bearing in mind the likely costs and benefits of a measure and the principles of precaution and prevention—

- (a) the use of low-waste technology;
- (b) the use of less hazardous substances;
- (c) the furthering of recovery and recycling of substances generated and used in the process and of waste where appropriate;
- (d) comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
- (e) technological advances and changes in scientific knowledge and understanding;
- (f) the nature, effects and volume of the emissions concerned;
- (g) the commissioning dates for new or existing installations or mobile plant;
- (h) the length of time needed to introduce the best available technique;
- (i) the consumption and nature of raw materials (including water) used in the process and the energy efficiency of the process;
- (j) the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;
- (k) the need to prevent accidents and to minimise the consequences for the environment;
- (l) the information published by public international organisations.

**2.** Sub-paragraphs (a) to (c) and (j) to (l) of paragraph 1 do not apply for the purposes of determining BAT in relation to Part B or Part C installations or Part B or Part C mobile plant.

SCHEDULE 3

Regulation 9

PRESCRIBED DATE AND TRANSITIONAL ARRANGEMENTS

PART 1

PART A INSTALLATIONS AND MOBILE PLANT

1. Save as set out in paragraph 2(b), for a Part A installation or Part A mobile plant which comes into operation after 6<sup>th</sup> January 2013, the prescribed date is 7<sup>th</sup> January 2013.
2. For a Part A installation or Part A mobile plant—
  - (a) which has a permit under the Pollution Prevention and Control Regulations (Northern Ireland) 2003(36) valid until 6<sup>th</sup> January 2014; or
  - (b) for which a duly made permit application was submitted before 7<sup>th</sup> January 2013 and which will come into operation before 7<sup>th</sup> January 2014,

the prescribed date is 7<sup>th</sup> January 2014.

3. For a Part A installation or Part A mobile plant where the activity carried out in the installation or mobile plant is not listed in Schedule 1 to the Pollution Prevention and Control Regulations (Northern Ireland) 2003 and which came into operation before 7<sup>th</sup> January 2013 and until 6<sup>th</sup> July 2015 had a relevant authorisation, the prescribed date is 7<sup>th</sup> July 2015.
4. For any Part A installation or Part A mobile plant, other than those specified in paragraphs 1 to 3 of this Part, the prescribed date is 7<sup>th</sup> January 2013.

*Interpretation of Part 1*

“relevant authorisation” means, in relation to the operation of a Part A installation or Part A mobile plant—

- (a) where the operation of the installation or mobile plant before 7<sup>th</sup> January 2013 required a waste management licence under the Waste Management Licensing Regulations (Northern Ireland) 2003(37), a licence under those Regulations; or
- (b) in any other case, planning permission granted under the Planning (Northern Ireland) Order 1991(38).

PART 2

PART B AND PART C INSTALLATIONS AND MOBILE PLANT

5. The prescribed date for a Part B or Part C installation or a new Part B or Part C mobile plant is 7<sup>th</sup> January 2013.

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(36) S.R. 2003 No.46, the relevant amendments are S.I. 2003/3311, S.R. 2003 No. 390, S.R. 2003 No. 496, S.R. 2004 No. 36, S.R. 2004 No. 507, S.R. 2005 No. 285, S.R. 2005 No. 300, S.R. 2005 No. 454, S.R. 2006 No. 98, S.R. 2006 No. 280, S.R. 2007 No. 245, S.I. 2007/2325, S.R. 2009 No. 159, S.R. 2009 No. 403, S.R. 2011 No. 2, S.R. 2011 No. 127, S.R. 2011 No. 212 and S.R. 2011 No. 402

(37) S.R.2003 No.493

(38) S.I. 1991/1220 (N.I.11)

## PART 3

### TRANSITIONAL ARRANGEMENTS

6.—(1) The enforcing authority may accept a permit issued under the Pollution Prevention and Control Regulations (Northern Ireland) 2003 as a permit for the purposes of these Regulations after the prescribed date.

(2) A permit issued under the Pollution Prevention and Control Regulations (Northern Ireland) 2003, which is accepted as a permit for the purposes of these Regulations, and which authorises an activity listed in Schedule 1 of these Regulations shall be deemed to contain the appropriate activity description from Schedule 1 of these Regulations.

(3) A Part A permit, or a permit for an activity listed in section 7 of Schedule 1, which is accepted as a permit for the purposes of these Regulations, is deemed to contain the following conditions, unless such conditions are included in the permit—

- (a) in the event that the operation of an installation or mobile plant gives rise to an incident or accident which significantly affects the environment, the operator must immediately—
  - (i) inform the regulator;
  - (ii) take the measures necessary to limit the environmental consequences of such an incident or accident; and
  - (iii) take the measures necessary to prevent further possible incidents or accidents;
- (b) in the event of a breach of any permit condition the operator of an installation or mobile plant must immediately—
  - (i) inform the regulator; and
  - (ii) take the measures necessary to ensure that compliance is restored within the shortest possible time;
- (c) in the event of a breach of any permit condition which poses an immediate danger to human health or threatens to cause an immediate significant adverse effect on the environment, the operator of a regulated facility must immediately suspend the operation of the installation or mobile plant or the relevant part of it until compliance with the permit conditions has been restored.

7. The enforcing authority must ensure that the permit is fully compliant with these Regulations after the prescribed date.

## PART 4

### APPLICATION OF THE POLLUTION PREVENTION AND CONTROL REGULATIONS (NORTHERN IRELAND) 2003

8. The Pollution Prevention and Control Regulations (Northern Ireland) 2003 shall not apply to any installation or mobile plant permitted under these Regulations.

## SCHEDULE 4

Regulation 10

## GRANT OF PERMITS

## PART 1

## APPLICATIONS FOR PERMITS

1.—(1) An application to an enforcing authority for a permit under regulation 10 shall be in writing and, subject to paragraphs 2 to 5, shall contain the following information—

- (a) the name, telephone number and address (including post code) of the applicant and, if different, any address to which correspondence relating to the application should be sent and, if the applicant is a body corporate, its registered number, the address of its registered or principal office and, if that body corporate is a subsidiary of a holding company, within the meaning of the Companies Act 2006<sup>(39)</sup>, the name of the ultimate holding company and the address of its registered or principal office;
- (b) in the case of an application for a permit to operate an installation or Part A mobile plant, the address of the site of the installation or mobile plant and its Irish grid reference, a map or plan showing that site and, in the case of an installation, the location of the installation on that site and the name of any district council in whose district the site is situated;
- (c) in the case of an application for a permit to operate a Part B or Part C mobile plant, the name of the district council in whose district the applicant has their principal place of business and the address of that place of business or, where the operator of the mobile plant has their principal place of business outside of Northern Ireland, the name of the district council in whose district the plant was first operated or, where the plant has not been operated in Northern Ireland, the district council in whose district it is intended by the operator that the plant will first be operated;
- (d) a description of the installation or mobile plant, the activities listed in Part 1 of Schedule 1 to be carried out in the installation or by means of the mobile plant and, in the case of an installation, any other directly associated activities to be carried out on the same site as the installation;
- (e) the nature, quantities and sources of foreseeable emissions from the installation or mobile plant into each environmental medium and a description of any foreseeable significant effects of the emissions on the environment;
- (f) for a Part B or Part C installation or a Part B or Part C mobile plant, the reference to emissions from the installation or mobile plant into each environmental medium in head (e) shall be read as a reference to emissions from the installation or mobile plant into the air;
- (g) the proposed technology and other techniques for preventing or, where that is not practicable, reducing emissions from the installation or mobile plant;
- (h) the proposed measures to be taken to monitor the emissions;
- (i) a description of any proposed additional measures to be taken to comply with the general principles set out in regulation 11;
- (j) in the case of an application for a permit to operate an installation or mobile plant covered by general binding rules, a statement as to whether the applicant wishes the aspects of the operation of the installation or mobile plant covered by the requirements in the rules to be subject to those requirements instead of conditions included in the permit; and

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(39) 2006 c 46

- (k) any additional information which the applicant wishes the enforcing authority to take into account in considering the application.
- (2) An application to the chief inspector to operate a Part A installation or Part A mobile plant shall additionally require the following information—
- (a) subject to sub-paragraph (4), a site report containing the information required by sub-paragraph (3);
  - (b) the raw and auxiliary materials and other substances and the energy to be used in or generated by the carrying out of the activities referred to in sub-paragraph (1)(d);
  - (c) a description of the measures to be taken for the prevention, preparation for re-use, recycling and recovery of waste generated by the operation of the installation or mobile plant;
  - (d) any relevant information obtained or conclusion arrived at in relation to the installation pursuant to Articles 5, 6, 7 and 9 of Directive 2011/92/EU(40) of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification);
  - (e) in the case of an application for a permit that will authorise the carrying out of a specified waste management activity, any information which the applicant wishes the chief inspector to take into account when considering whether the applicant is a fit and proper person to carry out that activity;
  - (f) an outline of the main alternatives to the proposed technology, techniques or measures, if any, studied by the applicant; and
  - (g) a non-technical summary of the information referred to in sub-paragraphs (1) and (2).
- (3) The site report required by sub-paragraph (2)(a) shall describe the condition of the site of the Part A installation or Part A mobile plant and shall, in particular, identify any substance in, on or under the land which may constitute a pollution risk.
- (4) Where a Part A activity involves the use, production or release of relevant hazardous substances and having regard to the possibility of soil and groundwater contamination at the site of the installation or mobile plant, the operator shall also prepare and submit to the chief inspector a baseline report before starting operation of an installation. The information within the baseline report—
- (a) shall contain the information necessary to determine the state of soil and groundwater contamination so as to make a quantified comparison with the state upon definitive cessation of activities, and shall contain at least the following information—
    - (i) information on the present use and, where available, on past uses of the site; and
    - (ii) where available, existing information on soil and groundwater measurements that reflect the state at the time the report is drawn up or, alternatively, new soil and groundwater measurements having regard to the possibility of soil and groundwater contamination by those hazardous substances to be used, produced or released by the installation concerned; and
  - (b) may include, or have attached to it, information produced pursuant to other national or European Union law which fulfils the requirements of head (a).
- (5) The requirements in sub-paragraphs (2)(a) and (4) shall not apply to any part of an application which relates to an activity falling within paragraphs (b), (d), (g) or (h) of Part A of section 5.1 of Schedule 1.

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(40) O.J. No. L26, 28.1.2012, p1

2. An application for a permit to operate a waste incineration installation shall in addition to the information specified in paragraph 1, contain a description of the measures which the operator proposes to undertake in order to ensure that—

- (a) the plant is designed, equipped and will be operated in such a manner that the requirements of Chapter IV of the IED are met, taking into account the categories of waste to be incinerated;
- (b) the heat generated during the incineration and co-incineration process is recovered as far as practicable, for example through combined heat and power, the generating of process steam or district heating;
- (c) the residues will be minimised in their amount and harmfulness and recycled where appropriate;
- (d) the disposal of the residues which cannot be prevented, reduced or recycled will be carried out in conformity with national and European Union law; and
- (e) the proposed measurement techniques for emissions into the air and water comply with Annex VI of the IED.

3. An application for a landfill permit, where an activity falling within Part A of section 5.2 in Part 1 of Schedule 1 is carried out, shall contain the following additional information—

- (a) a description of the types and total quantity of waste to be deposited;
- (b) the proposed capacity of the disposal site;
- (c) a description of the site, including its hydrogeological and geological characteristics;
- (d) the proposed operation, monitoring and control plan;
- (e) the proposed plan for the closure and after-care procedures; and
- (f) the financial provision required by virtue of regulation 4(3)(b).

4.—(1) An application for a permit to operate an installation which contains a SED installation shall, in addition to the information specified in paragraphs 1 and where applicable 2, include a description of the measures which are envisaged to guarantee in respect of that installation that the installation is designed, equipped and will be operated in such a manner that the requirements of Chapter V of the IED are met.

(2) That description shall include—

- (a) where the operator wishes to use a reduction scheme, details of the proposed reduction scheme; and
- (b) where there is used in the SED installation substances or mixtures which, because of their content of volatile organic compounds are classified as carcinogens, mutagens or toxic to reproduction under Regulation No 1272/2008(41) of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures are assigned or need to carry the hazard statements H340, H350, H350i, H360D or H360F or the risk phrases R45, R46, R49, R60 or R61, a timetable for replacing such substances or mixtures, as far as possible, by less harmful substances or mixtures within the shortest possible time, taking into account the guidance referred to in Article 64 of the IED.

5. Paragraph 1(1) applies in relation to an application for a permit to operate an installation involving dry cleaning as defined in section 7 of Part 1 of Schedule 1 (SED activities), as if, in so far as the installation is concerned with the carrying out of that activity, the following heads were substituted for heads (d) to (g)—

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(41) O.J. No. L 353, 31.12.2008, p1



- (d) the model name and number, description, serial number, if any, and date when the dry cleaning machine was installed, name of manufacturer and its rated capacity;
- (e) details of any spot cleaning to be undertaken and details of checking and maintenance procedures to be followed and supervision, training and qualifications of operating staff;
- (f) details of the solvents to be used, including a description of any risk phrase solvents;
- (g) details of the arrangements for storing solvents prior to use, and used solvents and solvent-contaminated materials, including a description of the location where the materials are stored;

6. The enforcing authority may, by notice in writing, require the applicant to furnish such further information as may be specified in the notice, within the period so specified, as the enforcing authority may require for the purpose of determining the application and, if the applicant fails to furnish the specified information within the period specified, the application shall, if the enforcing authority gives notice in writing to the applicant that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

7. Subject to paragraph 30, the applicant shall, within the period of 28 days beginning 14 days after the date on which the application is duly made, advertise the application—

- (a) in the case of an application for a permit to operate an installation or Part A mobile plant, in at least one newspaper circulating in the locality in which the installation or Part A mobile plant covered by the application will be operated; and
- (b) in the case of an application for a permit to operate a Part A installation or Part A mobile plant, in the Belfast Gazette.

8. Any advertisement required by paragraph 7 shall—

- (a) state the name of the applicant;
- (b) in the case of an application for a permit to operate an installation or Part A mobile plant, state the address of the site of the installation or mobile plant;
- (c) describe briefly the activities in Part 1 of Schedule 1 to be carried out in the installation or mobile plant;
- (d) state that the application contains a description of any foreseeable significant effects of emissions from the installation or mobile plant on the environment;
- (e) state where, and in the case of an application for a permit to operate a Part A installation, or Part A mobile plant how and at what times, any register which contains particulars of the application may be inspected and that it may be inspected free of charge;
- (f) explain that any person may make written representations to the enforcing authority within the period of 42 days beginning with the date of the advertisement and give the enforcing authority's address for receiving the representations; and
- (g) explain that any such representations made by any person will be entered in a public register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request.

9. In the case of an application for a permit to operate a Part A installation or Part A mobile plant, the advertisement required by paragraph 7 shall, in addition to any information required by paragraph 8—

- (a) explain that the register, specified in paragraph 8(e), contains the particulars of the application, including the information listed in paragraphs 1 to 4; and

- (b) where applicable, state that the determination of the application is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with paragraph 22.

**10.** Where an application is for a permit to operate more than one installation or mobile plant, the application and the advertisement required by paragraph 7 shall contain the information in relation to each installation or mobile plant.

**11.** Paragraph 7 shall not apply in relation to an application for a permit to operate an installation involving only—

- (1) the carrying out of an activity falling within heads (b), (c), (d) or (e) of Part C of section 1.2 of Part 1 of Schedule 1; or
- (2) dry cleaning, as defined in section 7 (SED activities) of Part 1 of Schedule 1.

## PART 2

### DETERMINATION OF APPLICATIONS

**12.—**(1) Subject to paragraph 30, the enforcing authority shall, within the period of 14 days from the date of receiving a duly made application for a permit, give notice of the application, enclosing a copy of it, to the following persons—

- (a) in the case of an application for a permit to operate an installation or Part A mobile plant, the Regional Agency for Public Health and Social Well-being in whose area the installation or mobile plant will be operated;
- (b) in the case of an application for a permit to operate a Part A installation or Part A mobile plant—
  - (i) the Food Standards Agency<sup>(42)</sup>;
  - (ii) where the operation of the installation or mobile plant may involve the release of any substance into a sewer vested in the Department for Regional Development, that Department;
  - (iii) where the operation of the installation or mobile plant may involve an emission which may affect an area of special scientific interest or a European site, the Department of the Environment;
  - (iv) where the operation of the installation or mobile plant may involve the release of any substance into a harbour managed by a harbour authority, that harbour authority;
  - (v) where the operation of the installation or mobile plant may involve the release of any substance directly into sea fisheries waters, the Department of Agriculture and Rural Development;
  - (vi) where the operation of the installation or mobile plant may involve the release of any substance directly into inland fisheries waters, the Department of Culture, Arts and Leisure;
  - (vii) where the operation of the installation or mobile plant may involve the release of any substance directly into waters under the control of the Loughs Agency or Waterways Ireland, the Loughs Agency or Waterways Ireland;
  - (viii) where the application will be determined by the chief inspector, the district council in whose district the installation or mobile plant will be operated; and

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<sup>(42)</sup> See section 1 of the Food Standards Act 1999 (c.28)

- (ix) where the operation of the installation or mobile plant will involve the carrying out of a specified waste management activity, the Department of the Environment (Planning Service);
- (c) in the case of an application for a permit to operate a Part B or Part C installation where the operation of the installation may involve an emission which may affect an area of special scientific interest or a European site, the Department of the Environment;
- (d) in the case of an application for a permit to operate an installation or a Part A mobile plant on a site in respect of which a major accident prevention policy document is required under regulation 5 of the Control of Major Accident Hazards Regulations (Northern Ireland) 2000(43) or a safety report is required under regulation 7 of those Regulations, the Health and Safety Executive for Northern Ireland;
- (e) in the case of an application for a permit to operate a Part C installation involving only the carrying out of an activity falling within heads (b), (c), (d) or (e) of Part C of section 1.2 of Part 1 of Schedule 1, the petroleum licensing authority for that installation; and
- (f) in the case of all applications, such other persons as the Department may direct.

(2) In sub-paragraph (1)—

“European site” has the same meaning as in regulation 9(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(44);

“harbour authority” has the same meaning as in section 38(1) of the Harbours Act (Northern Ireland) 1970(45);

“Health and Safety Executive for Northern Ireland” means the Health and Safety Executive established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978(46);

“Regional Agency for Public Health and Social Well-being” means the Regional Agency for Public Health and Social Well-being established under Article 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(47);

“The Loughs Agency” means an agency of the Foyle, Carlingford and Irish Lights Commission, the implementation body for aquaculture and marine matters established under Article 1 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing implementation bodies(48);

“petroleum licensing authority” means a district council empowered to grant petroleum spirit licences under the Petroleum (Consolidation) Act (Northern Ireland) 1929(49);

“Waterways Ireland” means the implementation body for inland waterways established under Article 1 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing implementation bodies.

**13.** Paragraph 12 does not apply in relation to an application for a permit to operate an installation involving only dry cleaning as defined in section 7 (SED activities) of Part 1 of Schedule 1.

**14.**—(1) If the enforcing authority proposes to grant a permit subject to an off-site condition, it shall, before granting the permit, give a notice which complies with sub-paragraph (2) to every person appearing to it to be a person falling within sub-paragraph (3).

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(43) S.R. 2000 No. 93

(44) S.R. 1995 No. 380

(45) 1970 c.1 (N.I.)

(46) S.I. 1978/1039 (N.I. 9)

(47) 2009 c.1 (N.I.)

(48) See Schedule 1 to the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 (S.I. 1999/859 (N.I.))

(49) 1929 c.13 (N.I.)

- (2) A notice served under sub-paragraph (1) shall—
- (a) be in writing;
  - (b) set out the off-site condition in question;
  - (c) indicate the nature of the works or things which that condition might require the holder of the permit to carry out or do; and
  - (d) specify the period allowed for the purpose of paragraph 15 for making representations to the enforcing authority relating to the condition or its possible effects and the manner in which any such representations are to be made.
- (3) A person falls within this sub-paragraph if—
- (a) that person is the owner, lessee or occupier of land; and
  - (b) that land is land in relation to which it is likely that, as a consequence of the permit being issued subject to the off-site condition in question, rights will have to be granted by virtue of regulation 13(7) to the holder of the permit.
- (4) In sub-paragraph (3), “owner” means the person who—
- (a) is for the time being receiving the rack-rent of the land, whether on that persons own account or as agent or trustee for another person; or
  - (b) would receive the rack-rent if the land were let at a rack-rent,
- but does not include a mortgagee not in possession.

**15.—**(1) Any representations made by any persons within the period allowed shall be considered by the enforcing authority in determining the application.

- (2) For the purpose of sub-paragraph (1), the period allowed for making representations is—
- (a) in the case of any person to whom notice is given pursuant to—
    - (i) paragraph 12, the period of 42 days beginning with the date on which notice is given; and
    - (ii) paragraph 14, the period specified in the notice;
  - (b) in the case of any other person—
    - (i) for applications, the period of 42 days; and
    - (ii) for draft determinations, the period of 20 working days,

beginning with the date on which the application or draft determination is advertised pursuant to paragraph 7 or 19.

**16.** In the case of an application for a permit to operate a Part A installation or Part A mobile plant, any relevant information obtained or conclusion arrived at, pursuant to Articles 5, 6, 7 and 9 of Directive 2011/92/EU(**50**) on the assessment of the effects of certain public and private projects on the environment, in relation to the installation shall be taken into consideration by the chief inspector in determining the application.

**17.—**(1) The Department may give directions to the enforcing authority requiring that any particular application or any class of applications for a permit shall be referred to it for determination pending a further direction under sub-paragraph (13).

(2) The enforcing authority shall inform the applicant of the fact that the application is being referred to the Department and forward to the Department any representations which have been made to the enforcing authority within the period allowed.

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(50) O.J. No, L26, 28.1.2012, p.1

(3) Where an application for a permit is referred to it under sub-paragraph (1), the Department may afford the applicant and the enforcing authority an opportunity of appearing before and being heard by a person appointed by the Department (the “appointed person”) and it shall do so in any case where a request is duly made by the applicant or the enforcing authority to be so heard.

(4) A request under sub-paragraph (3) shall be in writing and shall be made within the period of 21 days beginning with the day on which the applicant is informed that the application is being referred to the Department.

(5) A hearing held under sub-paragraph (3) may, if the appointed person so decides, be held, wholly or to any extent, in private.

(6) Where the Department causes a hearing to be held under sub-paragraph (3) it shall give the applicant and the enforcing authority at least 28 days notice (or such shorter period of notice as they may agree) of the date, time and place fixed for the holding of the hearing.

(7) In the case of a hearing under sub-paragraph (3) which is to be held wholly or partly in public, the Department shall, at least 21 days before the date fixed for the holding of the hearing—

- (a) where the application relates to the operation of an installation or Part A mobile plant, publish a copy of the notice specified in sub-paragraph (6) in at least two newspapers circulating in the locality in which the installation or mobile plant is operated; and
- (b) serve a copy of that notice on every person required to be notified under paragraph 12 and on any person who made representations to the enforcing authority with respect to the subject matter of the application.

(8) The Department may vary the date fixed for the holding of any hearing under sub-paragraph (3) and sub-paragraphs (6) and (7) shall apply to the variation of a date as they applied to the date originally fixed.

(9) The Department may also vary the time or place for the holding of a hearing under sub-paragraph (3) and shall give such notice of any variation as appears to it to be reasonable.

(10) The persons entitled to be heard at a hearing under sub-paragraph (3) are—

- (a) the applicant;
- (b) the enforcing authority; and
- (c) any person required under paragraph 12 to be notified of the application.

(11) Nothing in sub-paragraph (10) shall prevent the appointed person from permitting any other persons to be heard at the hearing and such permission shall not be unreasonably withheld.

(12) After the conclusion of a hearing, the appointed person shall make a report in writing to the Department which shall include the appointed person’s conclusions and recommendations or his reasons for not making any recommendations.

(13) The Department shall, on determining any application transferred to it under this paragraph, give to the enforcing authority such a direction as it thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the permit.

**18.—(1)** Except in a case where an application has been referred to the Department under paragraph 17 and subject to paragraph 23, the enforcing authority shall give notice of—

- (a) for Part A installations and for Part A mobile plant, its draft determination of an application for a permit, within the period of six months beginning with the day on which it received the duly made application;
- (b) for Part B and Part C installations and Part B and Part C mobile plant, its determination of an application for a permit, within the period of six months beginning with the day on which it received the duly made application; and
- (c) in any case, within such longer period as may be agreed with the applicant.

(2) For the purpose of calculating the periods mentioned in sub-paragraph (1) no account shall be taken of—

- (a) any period beginning with the date on which notice is served on the applicant under paragraph 6 and ending on the date on which the applicant furnishes the information specified in the notice;
- (b) any period allowed for making representations in relation to a notice given pursuant to paragraph 14 in so far as that period does not overlap with any other period allowed for making representations in accordance with paragraph 15;
- (c) where a matter falls to be determined under regulation 34 or 35, any period beginning with the date on which the period of 28 days referred to in paragraph 7 ends and ending on the date on which the application is advertised in accordance with paragraph 30(a);
- (d) where separate applications are made to operate different parts of one installation, any period beginning with the date on which notice is served on any of the applicants under paragraph 6 and ending on the date on which the applicant furnishes the information specified in the notice.

**19.**—(1) The enforcing authority shall—

- (a) within a period of 3 working days beginning with the date on which notice of a draft determination is given pursuant to paragraph 18(1)(a), advertise the notice on its web-site, and if it considers it appropriate, by any other means; and
- (b) take all relevant steps specified in the advertisement as falling to be carried out by the enforcing authority, within the time-periods set out in that advertisement.

(2) In the case of a notice of a draft determination in respect of an application which has been forwarded by the Department to another Member State under paragraph 22, the enforcing authority shall forward copies of the draft determination and of the advertisement made pursuant to this paragraph to the Department at the same time as the draft determination is advertised.

**20.**—(1) An advertisement required by paragraph 19 shall—

- (a) explain where, how and at what times any register which contains—
  - (i) any additional information which is relevant to the determination of the application which has become available after the application is advertised pursuant to paragraph 7;
  - (ii) a copy of the draft determination;
  - (iii) information on any guidance issued by the Department to the enforcing authority relevant to the application; and
  - (iv) information on the arrangements for public participation and the reasons and considerations on which the draft determination is based,may be inspected and that it may be inspected free of charge;
- (b) explain that any person may make representations in writing to the enforcing authority within the period of 20 working days beginning with the date of the advertisement and give the enforcing authority's address for receiving representations;
- (c) explain that where—
  - (i) no representations are made to the enforcing authority within the period referred to in head (b) and, where applicable, within the period specified under paragraph 24 for the Department to forward representations to the enforcing authority, the enforcing authority shall—
    - (aa) give notice of its determination; and

(bb) include in the register a copy of the final determination, together with a statement confirming that no representations have been made on the draft determination,

within the period of 5 working days from the date on which the period referred to in head (b) ends or, where applicable, the day on which the period specified under paragraph 24 for the Department to forward representations to the enforcing authority ends; or

(ii) representations are made within the period referred to in head (b), and where applicable, within the period specified under paragraph 24 for the Department to forward representations to the enforcing authority, the enforcing authority shall—

(aa) give notice of its determination;

(bb) include in the register a copy of the final determination, together with information on the reasons and considerations on which the determination is based, including information on the public participation process; and

(cc) advertise the notice on its web-site, and if it considers appropriate, by any other means,

within the period of 15 working days from the day on which the period referred to in head (b) ends or, where applicable, the day on which the period specified under paragraph 24 for the Department to forward representations to the enforcing authority ends or within such longer period as may be agreed with the applicant.

(2) Where the draft determination has been forwarded to the Department pursuant to paragraph 19 (2)—

(a) the enforcing authority shall forward to the Department a copy of the final determination and the information specified in sub-paragraph (1)(c)(i)(bb) or (1)(c)(ii)(bb), by the date by which it is required to give notice of its determination under sub-paragraph (1)(c)(i) or (1)(c)(ii); and

(b) the Department shall forward to the Member State to which the draft determination has been forwarded under paragraph 22, copies of the documents specified in the previous head, as soon as practicable after the date of receipt.

**21.** If the enforcing authority fails to give notice of its determination or draft determination of an application for a permit within the applicable period allowed by or under paragraph 18 or paragraph 20, the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

**22.** Where the Department is aware that the operation of an installation carrying out an activity listed in Annex I to the IED in Northern Ireland is likely to have significant negative effects on the environment of another Member State, or where another Member State likely to be significantly affected so requests, the Department shall forward—

(a) a copy of the application to operate the installation together with a copy of the advertisement made under paragraph 7; and

(b) where applicable, a copy of the draft determination in respect of that application together with a copy of the advertisement made under paragraph 19,

to the other Member States at the same time as the application or draft determination is advertised pursuant to paragraph 7 or 19, (or as soon as it becomes so aware or receives such a request, if it becomes so aware or receives such a request after the application or draft determination is advertised but before the application is determined) in order that the application or draft determination may serve as the basis for any consultations necessary in the framework of the bilateral relations between

the United Kingdom and the other Member State on a reciprocal and equivalent basis, as referred to in Article 26 of the IED.

**23.—**(1) Where an application is forwarded to another Member State pursuant to paragraph 22, the Department shall notify the applicant and the chief inspector and, in a case where the application has not been referred to the Department under paragraph 17—

- (a) the chief inspector shall not determine the application or provide his draft determination until the Department has notified him in writing that the bilateral consultations mentioned in paragraph 22 have been completed and has forwarded to him any representations duly made on the application by persons in the other Member State which have been forwarded to the Department; and
- (b) the period within which to give notice of the determination or to provide a draft determination of the application set out in paragraph 18 shall begin on the date on which the chief inspector receives the Department’s notification that the bilateral consultations have been completed.

(2) In determining an application which is forwarded to another Member State pursuant to paragraph 22 the chief inspector, or the Department if the application has been referred to it, shall take into consideration any representations duly made in the other Member State which have been forwarded to the Department.

**24.** Any representations on the draft determination made in the Member State to which the draft determination has been sent, which have been received by the Department within the period of 22 working days from the date of the Department’s receipt of the draft determination from the enforcing authority, shall be forwarded to the enforcing authority within the period of 3 working days beginning on the day after that period ends.

**25.—**(1) For the purposes of Parts 1 and 2 “working day” means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971<sup>(51)</sup>

(2) in paragraphs 22, 23 and 24, “Member State” shall be taken to include Norway, Iceland and Liechtenstein.

## PART 3

### NATIONAL SECURITY AND CONFIDENTIAL INFORMATION

**26.** The requirements of paragraph 7 shall not apply in so far as they would require the advertisement of information mentioned in paragraph 8 which is not to be included in the register by virtue of regulation 34 or 35.

**27.** The requirements of paragraph 12, other than paragraph 12(f), shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 34.

**28.** Subject to paragraph 29, the requirements of paragraph 12(1)(b)(ii), (iii) and (iv) and (c), shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 35.

**29.** Paragraph 28 shall not apply in relation to information which is not included in the register by virtue of regulation 35 in so far as—

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(51) 1971 c.80



- (a) in the case of the Department for Regional Development, the information is about the release of any substance into a sewer vested in the Department for Regional Development;
  - (b) in the case of the Department of the Environment, the information is about the release of any substance which may affect a site of special scientific interest or a European site; or
  - (c) in the case of a harbour authority, the information is about the release of any substance into a harbour managed by that person.
- 30.** Where a matter falls to be determined under regulation 34 or 35—
- (a) the period within which an advertisement is to be published under paragraph 7 shall be 28 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of; and
  - (b) the period for notification under paragraph 12(1) shall be the period of 14 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of.
- 31.** For the purpose of paragraph 30, the matters to be determined under regulation 34 or 35 are finally disposed of—
- (a) in a case where the Secretary of State determines under regulation 34 whether or not information is to be included in the register, on the date on which the Secretary of State so determines;
  - (b) in a case where the enforcing authority determines under regulation 35(2) or (5) that the information in question is commercially confidential, on the date of the enforcing authority's determination;
  - (c) in a case where the enforcing authority determines under regulation 35(2) or (5) that the information in question is not commercially confidential, on the date on which the period for bringing an appeal expires without an appeal being brought or, if such an appeal is brought within that period, on the date of the final determination of the appeal by the Planning Appeals Commission or the date on which the appeal is withdrawn.

## SCHEDULE 5

Regulation 12(2)

### POLLUTANTS

Indicative list of the main polluting substances to be taken into account if they are relevant for fixing emission limit values:

#### **AIR**

1. Sulphur dioxide and other sulphur compounds.
2. Oxides of nitrogen and other nitrogen compounds.
3. Carbon monoxide.
4. Volatile organic compounds.
5. Metals and their compounds.
6. Dust including fine particulate matter.
7. Asbestos (suspended particulates, fibres).
8. Chlorine and its compounds.

9. Fluorine and its compounds.
10. Arsenic and its compounds.
11. Cyanides.
12. Substances and mixtures which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air.
13. Polychlorinated dibenzodioxins and polychlorinated dibenzofurans.

## **WATER**

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment.
2. Organophosphorus compounds.
3. Organotin compounds.
4. Substances and mixtures which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment.
5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances.
6. Cyanides.
7. Metals and their compounds.
8. Arsenic and its compounds.
9. Biocides and plant protection products.
10. Materials in suspension.
11. Substances which contribute to eutrophication (in particular, nitrates and phosphates).
12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc.).
13. Substances listed in Annex X to Directive [2000/60/EC](#)(52).

## SCHEDULE 6

Regulation 13(8)

### COMPENSATION IN RELATION TO OFF-SITE CONDITIONS

- 1.—(1) This Schedule applies in any case where—
  - (a) an operator is required by an off-site condition in his permit to carry out works or do other things in relation to land not forming part of the site of the installation or mobile plant notwithstanding that he is not entitled to carry out the works or do the things;
  - (b) a person whose consent is required has, pursuant to the requirements of regulation 13(7), granted, or joined in granting, to the operator any rights in relation to the land; and
  - (c) those rights, or those rights together with other rights, are such as will enable the operator to comply with any requirements imposed on him by the off-site condition.
- (2) In this Schedule—

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(52) O.J. L327, 22.12.2000, p1.

“grantor” means a person mentioned in sub-paragraph (1)(b);

“relevant interest” means an interest in land out of which rights have been granted pursuant to the requirements of regulation 13(7).

2. In a case where this Schedule applies, any person who has granted, or joined in granting, the rights in question shall be entitled to be paid compensation under this Schedule by the operator.

3. Subject to paragraph 6(3) and (5)(b), compensation shall be payable under this Schedule for loss and damage of the following descriptions—

- (a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights;
- (b) depreciation in the value of any other interest in land to which the grantor is entitled which results from the exercise of the rights;
- (c) loss or damage, in relation to any relevant interest to which the grantor is entitled, which—
  - (i) is attributable to the grant of the rights or the exercise of them;
  - (ii) does not consist of depreciation in the value of that interest; and
  - (iii) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance if that interest had been acquired compulsorily under the Local Government Act (Northern Ireland) 1972(53) in pursuance of a notice of intention to vest served on the date on which the rights were granted;
- (d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest, and which results from the grant of the rights or the exercise of them; and
- (e) loss in respect of work carried out by or on behalf of the grantor which is rendered abortive by the grant of the rights or the exercise of them.

4.—(1) Subject to sub-paragraph (2), an entitlement to compensation under this Schedule arises on the date of the grant of the rights.

(2) Where, after a grant of rights pursuant to regulation 13(7), the conditions of the permit which rendered the grant of rights necessary are upheld on the final determination of an appeal against those conditions, the entitlement to compensation arises on the date of the final determination of the appeal.

5.—(1) An application for compensation under this Schedule shall be made by the grantor—

- (a) within 12 months from the date on which the entitlement to compensation arises in his case, or, as he may decide;
- (b) within six months from the date on which the rights are first exercised.

(2) An application shall be made in writing to the operator to whom the rights were granted and delivered at or sent by pre-paid post to the last known address for correspondence of that person.

(3) The application shall contain, or be accompanied by—

- (a) a copy of the grant of rights in respect of which the grantor’s entitlement arises, and of any plans attached to that grant;
- (b) a description of the exact nature of any interest in land in respect of which compensation is applied for;

- (c) a statement of the amount of compensation applied for, distinguishing the amounts applied for under each of heads (a) to (e) of paragraph 3, and showing how the amount applied for under each head has been calculated; and
- (d) where the date on which the entitlement to compensation arises is ascertained in accordance with paragraph 4(2), a copy of the notice of the final determination of the appeal.

6.—(1) The amount to be paid by way of compensation under this Schedule shall be assessed in accordance with the following sub-paragraphs.

(2) The rules set out in Article 6 of the Land Compensation (Northern Ireland) Order 1982<sup>(54)</sup> (rules for assessing compensation) shall, so far as applicable and subject to any necessary modifications, have effect for the purposes of this paragraph as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(3) No account shall be taken of any enhancement of the value of any interest in land, by reason of any building erected, work done or improvement or alteration made on any land in which the grantor is, or was at the time of erection, doing or making, directly or indirectly concerned, if the Lands Tribunal is satisfied that the erection of the building, the doing of the work, the making of the improvement or the alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of any loss under paragraph 3(e) expenditure incurred in the preparation of plans or on other similar preparatory matters, shall be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a mortgage—

- (a) the compensation shall be assessed as if the interest were not subject to the mortgage; and
- (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage).

(6) Compensation under this Schedule shall include an amount equal to the grantor's reasonable valuation and legal expenses.

7.—(1) Compensation payable under this Schedule in respect of an interest which is subject to a mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall, in either case, be applied by him as if it were proceeds of sale.

(2) Amounts of compensation determined under this Schedule shall be payable—

- (a) where the operator and the grantor or mortgagee agree that a single payment is to be made on a specified date, on that date;
- (b) where the operator and the grantor or mortgagee agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment;
- (c) in any other case, subject to any direction of the Lands Tribunal or the court, as soon as reasonably practicable after the amount of the compensation has been finally determined.

(3) Any question of the application of paragraph 6(3) or of disputed compensation shall be referred to and determined by the Lands Tribunal.

(4) In relation to the determination of any such question, Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982 (procedure on reference to the Lands Tribunal and costs) shall apply as if—

- (a) the reference in Article 4(1) of that Order to Article 3 of that Order were a reference to sub-paragraph (3) of this paragraph; and

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(54) S.I. 1982/712 (N.I. 9)

- (b) references in Article 5 of that Order to the acquiring authority were references to the operator.

**8.—(1)** Compensation payable under this Schedule shall carry interest at the rate determined for the time being under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 from the date specified in sub-paragraph (2) until payment.

(2) The date specified in this sub-paragraph is—

- (a) in the case of compensation payable by virtue of paragraph 3(a) or (b), the date of depreciation;
- (b) in the case of compensation payable by virtue of paragraph 3(c), (d) or (e), the date on which the loss is sustained or the damage done or, where injurious affection is sustained, the date of the injurious affection; and
- (c) in the case of compensation payable by virtue of paragraph 6(6), the date on which the expenses become payable.

(3) If it appears to any person that he may become liable to pay to another compensation under this Schedule or interest under this paragraph he may, if the other person requests him in writing to do so, make one or more payments on account of such compensation or interest.

(4) If, after a payment has been made by any person under sub-paragraph (3)—

- (a) it is agreed or determined that he is not liable to pay compensation or interest; or
- (b) by reason of any agreement or determination, any payment under that sub-paragraph is shown to be excessive,

the payment or excess shall be recoverable by that person.

## SCHEDULE 7

Regulation 19

### VARIATION OF CONDITIONS

#### PART 1

##### APPLICATIONS FOR VARIATION OF CONDITIONS

**1.** An application under regulation 19(2) for the variation of the conditions of a permit shall be in writing and shall contain the following information—

- (a) the name of the operator, his telephone number and address (including post code) and, if different, the address to which correspondence relating to the application should be sent;
- (b) in the case of a permit to operate a Part A installation or Part A mobile plant, the address of the site of the installation or mobile plant to which the permit applies;
- (c) if appropriate, a description of the proposed change in the operation of the installation or mobile plant requiring the variation and a statement of any changes as respects the matters dealt with in paragraph 1(1)(e) to (i) of Schedule 4, and, for Part A installations and Part A mobile plant, paragraph 1(2)(b) and (c) of that Schedule, which would result if the proposed change were made;
- (d) in the case of a variation required by a proposed substantial change in the operation of a Part A installation, any relevant information obtained or conclusion arrived at in relation to the proposed change pursuant to Articles 5, 6, 7 and 9 of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;

- (e) a description of the variations to the conditions of the permit which the operator wishes the enforcing authority to make;
- (f) any additional information which the operator wishes the enforcing authority to take into account in considering his application; and
- (g) in the case of an application for the variation of the conditions of a permit in respect of a waste incineration installation, the information specified in paragraph 2 of Schedule 4, or where such information has previously been included in an application made under these Regulations, a statement of any changes as respects the matters dealt with in paragraph 2 of that Schedule which would result if the proposed change in the operation of the installation or mobile plant requiring the variation were made.

2. If a proposed change in the operation of a Part A installation or Part A mobile plant, which is used to carry out an activity listed in Annex II of the IED, will result in additional land being included within the site of the installation or mobile plant, the application shall also contain a site report for that additional land describing the condition of the land, in particular, identifying any substance in, on or under the land which may constitute a pollution risk.

3. An application under regulation 19(2) for the variation of the conditions of a permit for a Part A installation or Part A mobile plant which—

- (a) uses, produces or emits hazardous substances;
- (b) has not previously submitted a baseline report; and
- (c) is used to carry out activities listed in Annex II of the IED,

shall also contain a baseline report.

4. The enforcing authority may, by notice in writing to the operator, require him to furnish such further information specified in the notice, within the period so specified, as the enforcing authority may require for the purpose of determining the application and if the operator fails to furnish the specified information within the period specified the application shall, if the enforcing authority gives notice in writing to the operator that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

5.—(1) Subject to sub-paragraph (2), this paragraph shall apply where an application is made for the variation of the conditions of a permit under regulation 19(2) which will authorise—

- (a) a substantial change in the operation of an installation or mobile plant;
- (b) a variation of the conditions of a permit where regulation 13(3) applies; or
- (c) a variation of the conditions of a permit in any other case where the enforcing authority determines that the procedure set out in sub-paragraph (3) should apply even though heads (a) and (b) do not apply.

(2) This paragraph shall not apply to an application for the variation of conditions of a permit in relation to an installation carrying out only dry cleaning activities as defined in sub-paragraph (2) of Part C of section 7 of Part 1 of Schedule 1.

(3) The enforcing authority shall, subject to paragraph 24(a), within the period of 14 days from the date of receiving the application—

- (a) notify the operator in writing that this paragraph applies and of any fee prescribed in respect of the application for variation under regulation 25;
- (b) give notice in writing of the application, enclosing a copy of it, to the persons to whom notice would have to be given in accordance with paragraph 12 of Schedule 4 in the case of an application for a permit to operate the particular installation or mobile plant.

(4) For the purpose of calculating the period of 14 days mentioned in sub-paragraph (3) no account shall be taken of any period beginning with the date on which notice is served on an operator under paragraph 4 and ending on the date on which the operator furnishes the information specified in the notice.

(5) If the applicant does not pay to the enforcing authority any fee notified under sub-paragraph (3)(a) within 28 days of the notification the application shall be deemed to have been withdrawn.

6.—(1) Subject to paragraph 24(b), an operator notified under paragraph 5(3)(a) shall, within the period of 28 days from the date on which the notification is made, advertise the application—

- (a) in the case of a variation affecting the operation of an installation or Part A mobile plant in at least one newspaper circulating in the locality in which the installation or mobile plant is operated; and
- (b) in the case of a Part A installation or Part A mobile plant, in the Belfast Gazette.

(2) An advertisement required by sub-paragraph (1) shall—

- (a) state the name of the operator;
- (b) in the case of a variation affecting the operation of a Part A installation or Part A mobile plant, state the address of the site of the installation or mobile plant concerned;
- (c) describe briefly the activities in Part 1 of Schedule 1 carried out in the installation or by means of the mobile plant and the change in the operation of the installation or mobile plant that will be authorised by the variation;
- (d) state where, and in the case of a variation affecting the operation of a Part A installation, how and at what times, any register which contains particulars of the application may be inspected and that it may be inspected free of charge;
- (e) explain that any person may make representations in writing to the enforcing authority within the period of 42 days beginning with the date of the advertisement and give the enforcing authority's address for receiving the representations;
- (f) explain that any such representations made by any person will be entered in a public register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request;
- (g) in the case of a variation affecting the operation of a Part A installation or Part A mobile plant—
  - (i) explain that the particulars of the application contained in the register specified in head (d) include the information listed in paragraph 1; and
  - (ii) where applicable, state that the determination of the application is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with paragraph 17.

(3) Sub-paragraph (1) shall not apply in relation to an application for the variation of the conditions of a permit relating to an installation which is only used to carry out an activity falling within paragraph (b), (c), (d) or (e) of Part C of section 1.2 of Part 1 of Schedule 1.

(4) Any representations made by any person within the period allowed shall be considered by the enforcing authority in determining the application.

(5) For the purpose of sub-paragraph (4), the period allowed for making representations is—

- (a) in the case of persons notified pursuant to paragraphs 5(3)(b), the period of 42 days beginning with the date on which notice of the application is given under that sub-paragraph;

(b) in the case of other persons—

(i) for applications, the period of 42 days; and

(ii) for draft determinations, the period of 20 working days,

beginning with the date on which the application, or the draft determination, is advertised pursuant to sub-paragraph (1) or paragraph 9.

7.—(1) The Department may give directions to the enforcing authority requiring that any particular application under regulation 19(2) or any class of such applications shall be referred to it for determination pending a further direction under sub-paragraph (13).

(2) The enforcing authority shall inform the operator of the fact that his application is being referred to the Department and forward to the Department any representations which have been made to the enforcing authority within the period allowed.

(3) Where an application for the variation of the conditions of a permit is referred to it under sub-paragraph (1) the Department may afford the operator and the enforcing authority an opportunity of appearing before and being heard by a person appointed by it (the “appointed person”) and it shall do so in any case where a request is duly made by the operator or the enforcing authority to be so heard.

(4) A request under sub-paragraph (3) shall be in writing and shall be made within the period of 21 days beginning with the day on which the operator is informed that his application is being referred to the Department.

(5) A hearing held under sub-paragraph (3) shall, if the appointed person so decides, be held wholly or to any extent directed by the appointed person, in private.

(6) Where the Department causes a hearing to be held under sub-paragraph (3), it shall give the operator and the enforcing authority at least 28 days notice (or such shorter period of notice as they may agree) of the date, time and place fixed for the holding of the hearing.

(7) In the case of a hearing under sub-paragraph (3) which is to be held wholly or partly in public, the Department shall, at least 21 days before the date fixed for the holding of the hearing—

(a) where the application relates to the operation of an installation or Part A mobile plant, publish a copy of the notice mentioned in sub-paragraph (6) in at least two newspapers circulating in the locality in which the installation or mobile plant is operated; and

(b) serve a copy of that notice on every person required to be notified under paragraph 5(3)(b) and on every person who made representations to the enforcing authority with respect to the subject matter of the application.

(8) The Department may vary the date fixed for the holding of any hearing under sub-paragraph (3) and sub-paragraphs (6) and (7) shall apply to the variation of a date as they applied to the date originally fixed.

(9) The Department may also vary the time or place for the holding of a hearing under sub-paragraph (3) and shall give such notice of any variation as appears to it to be reasonable.

(10) The persons entitled to be heard at a hearing under sub-paragraph (3) are—

(a) the operator;

(b) the enforcing authority; and

(c) any person required under paragraph 5(3)(b) to be notified of the application.

(11) Nothing in sub-paragraph (10) shall prevent the appointed person from permitting any other persons to be heard at the hearing and such permission shall not be unreasonably withheld.

(12) After the conclusion of a hearing, the appointed person shall make a report in writing to the Department which shall include his conclusions and recommendations or his reasons for not making any recommendations.



(13) The Department shall, on determining any application referred to it under this paragraph, give to the enforcing authority such a direction as it thinks fit as to whether the enforcing authority is to vary the conditions of the permit and, if so, as to the conditions that are to be attached to the permit by means of the variation notice.

**8.—**(1) Except in a case where an application under regulation 19(2) has been referred to the Department under paragraph 7 and subject to paragraph 18, the enforcing authority shall give notice of—

- (a) its determination of an application under regulation 19(4); or
- (b) in the case of an application affecting the operation of a Part A installation or Part A mobile plant, to which paragraph 5 applies, its draft determination in accordance with paragraph 9,

within the period specified in sub-paragraph (2).

(2) The period for the purposes of sub-paragraph (1) is as follows—

- (a) where paragraph 5 applies, the period of six months beginning with the day on which the enforcing authority received the application;
- (b) where paragraph 5 does not apply, the period of three months beginning with the day on which the enforcing authority received the application; or
- (c) in either case, such longer period as may be agreed with the operator.

(3) For the purpose of calculating the periods mentioned in sub-paragraph (2) no account shall be taken of—

- (a) any period beginning with the date on which notice is served on an operator under paragraph 4 and ending on the date on which the operator furnishes the information specified in the notice;
- (b) any period allowed for making representations in relation to a notice given pursuant to paragraph 6 in so far as that period does not overlap with any other period allowed for making representations in accordance with paragraph 6(5); and
- (c) where the matter falls to be determined under regulation 34 or 35, any period beginning with the date on which the period of 28 days referred to in paragraph 6(1) ends and ending on the date on which the application is advertised in accordance with paragraph 24(b).

**9.—**(1) The enforcing authority shall give notice of their draft determination of an application for a Part A installation or Part A mobile Plant, to which paragraph 5 applies, and shall—

- (a) within the period of 3 working days beginning with the date on which notice of a draft determination is given, advertise the draft variation notice on its web-site and, if it considers it appropriate, by any other means; and
- (b) take all relevant steps specified in the advertisement as falling to be carried out by the enforcing authority, within the time periods set out in that advertisement.

(2) In the case of a notice of a draft determination in respect of an application which has been forwarded by the Department to another Member State under paragraph 17, the enforcing authority shall forward copies of the draft determination and of the advertisement made pursuant to this paragraph to the Department at the same time as the draft determination is advertised.

**10.—**(1) An advertisement required by paragraph 9 shall—

- (a) explain where, how and at what times any register which contains—
  - (i) any additional information which is relevant to the determination of the application which has become available after the application is advertised pursuant to paragraph 6(1);

- (ii) a copy of the draft determination;
  - (iii) information on any guidance issued by the Department to the enforcing authority relevant to the application; and
  - (iv) information on the arrangements for public participation and the reasons and considerations on which the draft determination is based,
- may be inspected and that it may be inspected free of charge;
- (b) explain that any person may make representations in writing to the enforcing authority within the period of 20 working days beginning with the date of the advertisement and give the enforcing authority's address for receiving representations;
  - (c) explain that where—
    - (i) no representations are made to the enforcing authority within the period referred to in head (b) and, where applicable, within the period specified under paragraph 20 for the Department to forward representations to the enforcing authority, the enforcing authority shall—
      - (aa) give notice of its determination; and
      - (bb) include in the register a copy of the final determination, together with a statement confirming that no representations have been received by the enforcing authority on the draft determination,within the period of 5 working days beginning on the day on which the period referred to in head (b) ends or, where applicable, the day on which the period specified under paragraph 20 for the Department to forward representations to the enforcing authority ends; or
    - (ii) representations are made within the period referred to in head (b) and, where applicable, within the period specified under paragraph 20 for the Department to forward representations to the enforcing authority, the enforcing authority shall—
      - (aa) give notice of its determination;
      - (bb) include in the register a copy of the variation, together with information on the reasons and considerations on which the variation is based, including information on the public participation process; and
      - (cc) advertise the notice on its web-site and, if it considers it appropriate, by any other means,within the period of 15 working days beginning with the day on which the period referred to in head (b) ends or, where applicable, the day on which the period specified under paragraph 20 for the Department to forward representations to the enforcing authority ends or within such longer period as may be agreed with the applicant.
- (2) Where the draft determination has been forwarded to the Department pursuant to paragraph 9(2)—
- (a) the enforcing authority shall forward to the Department a copy of the final determination and the information specified in sub-paragraph (1)(c)(i)(bb) or (1)(c)(ii)(bb) as the case may be, by the date by which it is required to give notice of its determination under sub-paragraph (1)(c)(i) or (1)(c)(ii); and
  - (b) the Department shall forward to the Member State to which the draft determination has been forwarded under paragraph 17, copies of the documents specified in the previous head as soon as possible after the date of receipt.

11. If the enforcing authority fails to give notice of its determination or draft determination of an application for a variation of the conditions of a permit within the applicable period allowed by or under paragraph 8 or 10, the application shall, if the operator notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

## PART 2

### VARIATION NOTICES

12.—(1) Subject to paragraph (2), this paragraph applies where the enforcing authority proposes to serve a variation notice under regulation 19(5) where no application was made, and the variation will—

- (a) authorise a substantial change in the operation of an installation or a mobile plant;
- (b) vary the conditions of a permit to operate a Part A installation as a result of a review under regulation 17(2)(a);
- (c) vary the conditions of a permit where regulation 13(3) applies; or
- (d) vary the conditions of a permit and the enforcing authority determines that in the particular circumstances the procedure set out in the following sub-paragraphs should be followed even though heads (a), (b) and (c) do not apply.

(2) This paragraph shall not apply—

- (a) where the enforcing authority proposes to serve a variation notice—
  - (i) which has been modified to take account of representations made in accordance with this paragraph in relation to the enforcing authority's previous proposal to serve the notice without the modifications; or
  - (ii) in order to comply with a direction given by the Department; or
- (b) to a proposed variation notice in relation to an installation carrying out only dry cleaning activities as defined in sub-paragraph (2) of Part C of section 7 of Part 1 of Schedule 1.

(3) Where this paragraph applies the enforcing authority shall, subject to paragraph 24(a)—

- (a) notify the operator in writing that this paragraph applies and of any fee prescribed in respect of the variation under regulation 25;
- (b) serve a copy of the proposed variation notice on the operator;
- (c) give notice in writing of the proposed variation notice, enclosing a copy of it, to the persons to whom notice would have to be given in accordance with paragraph 12 of Schedule 4 in the case of an application for a permit to operate the particular installation or mobile plant; and
- (d) in the case of a proposed variation notice affecting the operation of a Part A installation or Part A mobile plant, provide the operator with—
  - (i) information on the reasons and considerations on which that proposed variation notice is based; and
  - (ii) information on any guidance issued by the Department to the enforcing authority relevant to the determination of the proposed variation.

(4) Where this paragraph applies to a variation affecting the operation of a Part A installation, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6, 7 and 9 of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment in relation to the substantial change shall be taken into consideration by the chief inspector before serving the variation notice.

**13.** The chief inspector shall notify the operator of a Part A installation or Part A mobile plant which—

- (a) uses, produces or emits hazardous substances;
- (b) has not previously submitted a baseline report;
- (c) carries out or will carry out activities listed in Annex II of the IED; and
- (d) is having a permit varied due to—
  - (i) a review of conditions under regulation 17; or
  - (ii) a substantial change,

of the requirement to submit a baseline report within the time specified by the chief inspector, and shall not serve a variation notice until such time as a baseline report is submitted.

**14.—(1)** Subject to paragraph 24(b), an operator notified under paragraph 12(3)(a) shall, within 28 days beginning on the day on which the notification is made, advertise the proposed variation notice—

- (a) in the case of a variation affecting the operation of an installation or Part A mobile plant in at least one newspaper circulating in the locality in which the installation or mobile plant is operated; and
- (b) in the case of a Part A installation or Part A mobile plant, in the Belfast Gazette.

**(2)** An advertisement required by sub-paragraph (1) shall—

- (a) state the name of the operator;
- (b) in the case of a variation affecting the operation of an installation or Part A mobile plant, state the address of the site of the installation or mobile plant concerned;
- (c) describe briefly the activities in Part 1 of Schedule 1 carried out in the installation or by means of the mobile plant and the change in the operation of the installation or mobile plant that will be authorised by the variation;
- (d) state where, and in the case of a variation affecting the operation of a Part A installation, how and at what times, any register which contains—
  - (i) particulars of the proposed variation; and
  - (ii) in the case of a proposed variation notice affecting the operation of a Part A installation, a copy of the proposed variation notice and the information provided by the enforcing authority under paragraph 12(3)(d)(i) on the reasons and considerations on which that proposed variation notice is based,

may be inspected and that it may be inspected free of charge;

- (e) explain that any person may make representations in writing to the enforcing authority within the period of 42 days beginning with the date of the advertisement and give the enforcing authority's address for receiving the representations;
- (f) explain that any such representations made by any person will be entered in a public register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request;
- (g) in the case of a variation affecting the operation of a Part A installation or Part A mobile plant—
  - (i) describe the contents of the proposed variation notice;

- (ii) where applicable, state that the serving of the variation notice is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with paragraph 17; and
- (iii) where applicable, explain that any guidance issued by the Department to the enforcing authority relevant to the serving of the proposed variation which has been provided to the operator under paragraph 12(3)(d)(ii), has been included in the register.

(3) Sub-paragraph (1) shall not apply in relation to a proposed variation notice relating to an installation which is only used to carry out an activity falling within paragraph (b), (c), (d) or (e) of Part C of section 1.2 of Part 1 of Schedule 1.

(4) Any representations made by any person within the period allowed shall be considered by the enforcing authority before serving the variation notice.

(5) For the purpose of paragraph (4), the period allowed for making representations is—

- (a) in the case of persons notified pursuant to paragraphs 12(3)(c), the period of 42 days beginning with the date on which notice of the proposed variation notice is given under that sub-paragraph; or
- (b) in the case of other persons, the period of 42 days beginning with the date on which the proposed variation notice is advertised pursuant to sub-paragraph (1).

**15.—**(1) If the enforcing authority proposes to serve a variation notice which will result in the inclusion of an off-site condition in the permit concerned, it shall, before serving the variation notice, give a notice which complies with sub-paragraph (3) to every person appearing to it to be a person falling within sub-paragraph (2).

(2) A person falls within this sub-paragraph if—

- (a) he is the owner, lessee or occupier of land; and
- (b) that land is land in relation to which it is likely that, as a consequence of the off-site condition in question, rights will have to be granted by virtue of regulation 13(7) to the holder of the permit.

(3) A notice served under sub-paragraph (1) shall—

- (a) be in writing;
- (b) set out the off-site condition in question;
- (c) indicate the nature of the works or things which that condition might require the holder of the permit to carry out or do; and
- (d) specify a period, not being less than 28 days beginning on the date on which the notice is served, in which representations may be made to the enforcing authority relating to the condition or its possible effects and the manner in which any such representations are to be made.

(4) In sub-paragraph (2), “owner” means the person who—

- (a) is for the time being receiving the rack-rent of the land, whether on his own account or as agent or trustee for another person; or
- (b) would receive the rack-rent if the land were let at a rack-rent,

but does not include a mortgagee not in possession.

(5) Any representations made by a person notified under sub-paragraph (1) within the period specified under sub-paragraph (3)(d) shall be considered by the enforcing authority before serving the variation notice.

**16.—(1)** In the case of a proposed variation notice affecting the operation of a Part A installation or Part A mobile plant to which the consultation and advertising procedure set out in paragraphs 12 and 14 applies—

(a) where no representations are made to the enforcing authority within the period specified in paragraph 14(5), and where applicable, by the day on which the enforcing authority receives the Department’s notification that the bilateral consultations have been completed pursuant to paragraph 18(b), the enforcing authority shall—

- (i) serve the variation notice;
- (ii) include in the register a copy of the variation notice, together with a statement confirming that no representations have been received by the enforcing authority on the proposed variation; and
- (iii) where paragraph 17 applies, forward a copy of the variation notice and the information in sub-head (ii) to the Department,

within the period of 7 days starting with the day on which the period allowed by paragraph 14(5) ends or, where applicable and if later, the day on which the enforcing authority receives the Department’s notification that the bilateral consultations have been completed pursuant to paragraph 18(b); or

(b) where representations are made within the period specified in paragraph 14(5) and where applicable, by the day on which the enforcing authority receives the Department’s notification that the bilateral consultations have been completed pursuant to paragraph 18(b), the enforcing authority shall—

- (i) serve the variation notice;
- (ii) include in the register a copy of the variation notice, together with information on the reasons and considerations on which the variation notice is based;
- (iii) advertise the notice on its web-site and, if it considers it appropriate, by any other means; and
- (iv) where paragraph 17 applies, forward a copy of the variation notice and the information in sub-head (ii) to the Department,

within the period of 21 days starting with the day on which the period allowed by paragraph 14(5) ends or, where applicable and if later, the day on which the enforcing authority receives the Department’s notification that the bilateral consultations have been completed pursuant to paragraph 18(b) or within such longer period as may be agreed with the operator.

(2) The Department shall forward to the Member State to which the proposed variation has been forwarded under paragraph 17, a copy of the variation notice and the information specified in sub-paragraph (1)(a)(ii) or (1)(b)(ii), as soon as practicable after the date of receipt.

(3) Where sub-paragraph (1) applies and the enforcing authority fails to serve the variation notice within the period specified in that sub-paragraph, the proposed variation shall, if the operator of the Part A installation to which the variation refers notifies the enforcing authority in writing that he treats the failure as such, be deemed to have been withdrawn at the end of that period.

## PART 3

### TRANSBOUNDARY NOTIFICATION

**17.** Where the Department is aware that an application or a proposal to serve a variation notice mentioned in paragraphs 5(1) or 12(1) relates to a substantial change in the operation of an installation carrying out activities listed in Annex I of the IED in Northern Ireland which is likely

to have significant negative effects on the environment of another Member State, or where another Member State likely to be significantly affected so requests, the Department shall forward—

- (a) a copy of the application or proposed variation notice and a copy of the advertisement made under paragraphs 6(1) or 14(1); and
- (b) where applicable, a copy of the draft determination in respect of that application together with a copy of the advertisement made under paragraph 9,

to the other Member State at the same time as the application, proposed variation notice or draft determination notice is advertised pursuant to paragraphs 6(1), 14(1) or 9 (or as soon as it becomes so aware or receives such a request, if it becomes so aware or receives such a request after the application, proposed variation notice or draft determination is advertised but before the application is determined or the proposed variation notice is served) in order that the application, draft determination or proposed variation notice may serve as the basis for any consultations necessary in the framework of the bilateral relations between the United Kingdom and the other Member State on a reciprocal and equivalent basis, as referred to in Article 26 of the IED.

**18.** Where an application or proposal to serve a variation notice is forwarded to another Member State pursuant to paragraph 17, the Department shall notify the operator of the installation concerned and the chief inspector and—

- (a) the chief inspector shall not determine the application or provide his draft determination (where the application has not been referred to the Department under paragraph 7) or serve the variation notice until the Department has notified him in writing that the bilateral consultations required by paragraph 17 have been completed and has forwarded to him any representations duly made on the application or proposed variation by persons in the other Member State which have been forwarded to the Department; and,
- (b) in the case of an application to be determined by the chief inspector, the period within which to determine the application or to provide a draft determination set out in paragraph 8(2)(a) shall begin on the day on which the chief inspector receives the Department's notification that the bilateral consultations have been completed.

**19.** In determining an application or before serving a variation notice which has been forwarded to another Member State pursuant to paragraph 17, the chief inspector, or, in the case of an application, the Department if the application has been referred to it, shall take into consideration any representations duly made in the other Member State which have been forwarded to the Department.

**20.** Any representations on the draft determination made in the Member State to which the draft determination has been sent, which have been received by the Department within the period of 22 working days from the date of the Department's receipt of the draft determination from the enforcing authority, shall be forwarded to the enforcing authority within the period of 3 working days beginning on the day after that period ends.

**21.—(1)** For the purposes of this Schedule “working day” means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971(**55**)

(2) in paragraphs 17 to 20, “Member State” shall be taken to include Norway, Iceland and Liechtenstein.

## PART 4

### NATIONAL SECURITY AND CONFIDENTIAL INFORMATION

**22.** The requirements of paragraph 6(1) and 14(1) shall not apply in so far as they would require the advertisement of information mentioned in paragraph 6(2) and 14(2) which is not to be included in the register by virtue of regulation 34 or 35.

**23.** Paragraphs 27, 28 and 29 of Schedule 4 shall apply in relation to the requirement to give notice under paragraphs 5(3)(b) or 12(3)(c) of this Schedule as they apply to the requirement to give notice under paragraph 12 of that Schedule.

**24.** Where a matter falls to be determined under regulation 34 or 35—

- (a) the period within which an advertisement is to be published under paragraphs 6(1) and 14(1) shall be 28 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of; and
- (b) the period for notification under paragraphs 5(3)(b) and 12(3)(c) shall be 14 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of.

**25.** Paragraph 31 of Schedule 4 shall apply for the purpose of paragraph 24 of this Schedule as it applies for the purpose of paragraph 30 of that Schedule.

### SCHEDULE 8

Regulation 7

#### SED INSTALLATIONS

##### **Application**

1. This Schedule applies in relation to every installation to which Chapter V of the IED applies.

##### **Interpretation**

2. In this Schedule when interpreting Chapter V of the IED—
  - (a) an expression that is defined in Article 57 of the IED has the meaning given in that Article; and
  - (b) the competent authority is the enforcing authority.

##### **Exercise of relevant functions**

3. The enforcing authority must exercise its functions under regulation 7 so as to ensure compliance with the following provisions of the IED—
  - (a) Article 7 (incidents and accidents) which shall be read as if the words “Member States” were replaced by “the enforcing authority”;
  - (b) Article 8(2) (non-compliance) which shall be read as if the words “Member States” were replaced by “the enforcing authority”;
  - (c) Article 58 (substitution of hazardous substances);
  - (d) Article 59 (control of emissions), except for 59(4) and the last sentence of 59(1) and which shall be read as if the words “Member States” were replaced by “The enforcing authority”;



- (e) Article 60 (monitoring of emissions) which shall be read as if the words “Member States” were replaced by “the enforcing authority”;
- (f) Article 61 (compliance with emission limit values);
- (g) Article 63 (substantial change to existing installations); and
- (h) Article 82 (7), (8) and (9) (transitional provisions).

## SCHEDULE 9

Regulation 7

### LARGE COMBUSTION PLANTS

#### Application

1. This Schedule applies in relation to every combustion plant referred to in Article 30(3) of the IED.
2. This Schedule applies, from 1<sup>st</sup> January 2016, in relation to every combustion plant referred to in Article 30(2) of the IED.

#### Interpretation

3. When interpreting Chapter III of the IED, for the purposes of this Schedule, the competent authority is—
  - (a) for the purposes of exercising a judgment as to whether there is an overriding need to maintain energy supplies under Article 30(6) or 37(2) of the IED, the Department; or
  - (b) otherwise, the chief inspector.

#### Exercise of relevant functions

- 4.—(1) The chief inspector must exercise his functions under regulation 7 so as to ensure compliance with the following provisions of Chapter III of the IED—
  - (a) Article 29 (aggregation rules);
  - (b) Article 30(1), (2), (3), (4) (5) (6), (7) and (8) (emission limit values), except the second sub-paragraph of 30(5) and the second sub-paragraph of 30(6);
  - (c) Article 31(1) and (2) (desulphurisation rate) which shall be read as if the words “Member States” were replaced by “The chief inspector”;
  - (d) Article 33(1), (3) and (4) (limited life time derogation) ;
  - (e) Article 34 (1) and (2) (small isolated systems);
  - (f) Article 35(1) (district heating plants);
  - (g) Article 36(1) and (2) (geological storage of carbon dioxide) which shall be read as if the words “Member States” were replaced by “the chief inspector”
  - (h) Article 37 (malfunction or breakdown of the abatement equipment);
  - (i) Article 38 (monitoring of emissions into air) which shall be read as if the words “Member States” were replaced by “the chief inspector”;
  - (j) Article 39 (compliance with emission limit values);
  - (k) Article 40 (multi-fuel firing combustion plants); and
  - (l) Article 82(4) (transitional provision).

- (2) The chief inspector must—
- (a) immediately inform the Department of any derogation under Article 30(5) of the IED;
  - (b) immediately inform the Department if he considers that the Department must make a judgment as to whether there is an overriding need to maintain energy supplies under Article 30(6) or 37(2) of the IED; and
  - (c) exercise his functions under regulation 7 in relation to such a judgment made by the Department.

## SCHEDULE 10

Regulation 7

### TITANIUM DIOXIDE

#### **Application**

1. This Schedule applies in relation to every installation producing titanium dioxide.

#### **Interpretation**

2. Chapter VI of the IED shall be read as if the words “Member States” were replaced by “the chief inspector”.

#### **Exercise of functions**

3. The chief inspector must exercise his functions under regulation 7 so as to ensure compliance with the following provisions of the IED—
  - (a) Article 67 (prohibition of the disposal of waste);
  - (b) Article 68 (control of emissions into water);
  - (c) Article 69 (prevention and control of emissions into air); and
  - (d) Article 70 (monitoring of emissions).

## SCHEDULE 11

Regulation 7

### WASTE INCINERATION

#### **Application**

1. This Schedule applies in relation to any waste incineration plant or waste co-incineration plant to which Chapter IV of the IED applies, which incinerates or co-incinerates solid or liquid waste.

#### **Interpretation**

2. When interpreting Chapter IV and Annex VI of the IED for the purposes of this Schedule—
  - (a) “residue” shall mean any liquid or solid waste which is generated by a waste incineration plant or waste co-incineration plant;
  - (b) the chief inspector is the competent authority; and

- (c) sub-paragraph (c) of paragraph 2.1 of Part 6 of Annex VI shall be read as if the words “dioxin-like polychlorinated biphenyls and poly-cyclic aromatic hydrocarbons” appeared after the word “furans”.

### **Exercise of relevant functions**

**3.—(1)** The chief inspector must exercise his functions under regulation 7 so as to ensure compliance with the following provisions of Chapter IV of the IED—

- (a) Article 42 (scope);
- (b) Article 45(1) to (2) and (4) (permit conditions);
- (c) Article 46 (control of emissions);
- (d) Article 47 (breakdown);
- (e) Article 48(1) to (4) (monitoring of emissions), which shall be read as if the words “Member States” were replaced by “the chief inspector”;
- (f) Article 49 (compliance with emission limit values);
- (g) Article 50 (operating conditions);
- (h) Article 51(1) to (3) (authorisation to change operating conditions) but ignore the words “Member States may lay down rules governing these authorisations” in Article 51(1);
- (i) Article 52 (delivery and reception of waste);
- (j) Article 53 (residues);
- (k) Article 54 (substantial change);
- (l) Article 55 (reporting and public information on waste incineration plants and waste co-incineration plants); and
- (m) Article 82(5) and (6) (transitional provisions).

(2) The chief inspector shall ensure that a permit which authorises the incineration or co-incineration of waste with energy recovery shall contain conditions ensuring that the recovery of energy shall take place with a high level of energy efficiency.

(3) The chief inspector shall ensure that a permit which authorises the operation of a waste incineration installation shall contain such conditions as the chief inspector considers necessary to give effect to Article 14 of Directive [2006/66/EC](#)(**56**) of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators.

SCHEDULE 12

Regulation 7

PETROL VAPOUR RECOVERY

PART 1

PVR I

**Application**

1. This Part applies in relation to every Part C activity falling within paragraphs (b) of Part B and paragraphs (a) and (b) of Part C of section 1.2 of Part 1 of Schedule 1.

**Interpretation**

2. In this Part, the “PVR I” means European Parliament and Council Directive [94/63/EC\(57\)](#) of 20 December 1994 on the control of VOC emissions resulting from the storage of petrol and its distribution from terminals to service stations.

**Exercise of enforcing authority functions**

3.—(1) The enforcing authorities must exercise their relevant functions under regulation 7 so as to ensure compliance with the following provisions of the PVR I—

- (a) the first paragraph of Article 3(1), (storage installations at terminals);
- (b) the first and last paragraphs of Article 4(1), and 4(3), (loading and unloading of mobile containers at terminals); and
- (c) the first paragraph of Article 6(1) (loading into storage installations at service stations).

(2) When interpreting the PVR I for the purposes of this paragraph ignore points 2.3, 3.2 and 3.5 of Annex IV to the PVR I.

PART 2

PVR II

**Application**

1. This Part applies in relation to every Part C activity falling within paragraphs (c) to (e) of Part C of section 1.2 of Part 1 of Schedule 1.

**Interpretation**

2.—(1) In this Part, the “PVR II” means Directive [2009/126/EC](#) of the European Parliament and of the Council of 21 October 2009 on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations([58](#)).

(2) When interpreting the PVR II for the purposes of this paragraph—

- (a) in Articles 3, 4 and 5, ignore the words “Member States shall ensure that” where they occur; and

(57) O.J. No L 365, 31.12.1994, p 24, as amended by Regulation ([EC](#)) No 1882/2003 (OJ No L 284, 31.10.2003, p 1).

(58) O.J. L 285, 31.10.2009, p.36

- (b) in Article 4, ignore the words “with effect from the date on which Stage II petrol vapour recovery systems become mandatory pursuant to Article 3”.

### **Exercise of district council functions**

3. The district councils must exercise their functions under regulation 7 so as to ensure compliance with the following provisions of the PVR II—

- (a) Article 3 (service stations);
- (b) Article 4 (minimum level of petrol vapour recovery); and
- (c) Article 5 (periodic checks and consumer information).

## SCHEDULE 13

Regulation 7

### ASBESTOS

#### **Application**

1. This Schedule applies in relation to every activity falling within section 3.2 of Part 1 of Schedule 1.

#### **Interpretation**

2.—(1) In this Schedule, “the Asbestos Directive” means Directive [87/217/EEC](#) of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos<sup>(59)</sup>.

(2) When interpreting the Asbestos Directive for the purposes of this Schedule—

- (a) the competent authority is the chief inspector;
- (b) “waste” has the meaning given in the Asbestos Directive; and
- (c) in Article 6(1) of that Directive, “regular intervals” means, for the purposes of an installation to which Article 4 applies, intervals of not more than 6 months.

#### **Exercise of chief inspector’s functions**

3. The chief inspector must exercise his functions under regulation 7 so as to ensure compliance with the following provisions of the Asbestos Directive—

- (a) Article 3;
- (b) Article 4(1);
- (c) Article 5;
- (d) Article 6(1) and (2); and
- (e) Article 8.

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(59) O.J. L 085, 28.03.1987 p. 0040 – 0045 as amended by Council Directive [91/692/EEC](#) and Council Regulation [807/2003/EC](#)

## SCHEDULE 14

Regulation 30

## SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

**1.** In this Schedule—

“relevant power” means a power conferred by regulation 30, including a power exercisable by virtue of a warrant under this Schedule; and

“responsible authority”—

- (a) in relation to an inspector appointed under regulation 8(1), means the Department; and
- (b) in relation to an inspector appointed under regulation 8(5), means the district council by which that person is appointed.

**2.—(1)** If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

- (a) that there are reasonable grounds for the exercise in relation to any premises of a relevant power; and
- (b) one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,

the justice of the peace may by warrant authorise an inspector to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.

**(2)** The conditions mentioned in sub-paragraph (1)(b) are—

- (a) that the exercise of the power in relation to the premises has been refused;
- (b) that such a refusal is reasonably apprehended;
- (c) that the premises are unoccupied;
- (d) that the occupier is temporarily absent from the premises and the case is one of urgency; or
- (e) that an application for admission to the premises would defeat the purpose of the proposed exercise of the power.

**(3)** In a case where regulation 30(5) applies, a justice of the peace shall not issue a warrant under this Schedule by virtue only of being satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless the justice of the peace is also satisfied that the notice required by regulation 30(5) has been given and that the period of that notice has expired.

**(4)** Every warrant under this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

**3.—(1)** Subject to regulation 30(10), information obtained in consequence of the exercise of a relevant power, with or without the consent of any person, is admissible in evidence against that or any other person.

**(2)** Without prejudice to the generality of sub-paragraph (1), information obtained by means of monitoring or other apparatus installed on any premises in the exercise of a relevant power, with or without the consent of any person in occupation of the premises, is admissible in evidence in any proceedings against that or any other person.

**4.** An inspector who, in the exercise of a relevant power, enters any premises which are unoccupied or whose occupier is temporarily absent shall leave the premises as effectually secured against trespassers as the inspector found them.

5.—(1) Where an inspector exercises any power conferred by regulation 30(3)(a) or (b) or (4), it is the duty of the responsible authority to make full compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise by the inspector of that power; or
- (b) the performance of, or failure of the inspector to perform, the duty imposed by paragraph 4.

(2) Compensation shall not be payable by virtue of sub-paragraph (1) in respect of any loss or damage if the loss or damage—

- (a) is attributable to the default of the person who sustained it; or
- (b) is loss or damage in respect of which compensation is payable under any other provision of the pollution control statutory provisions.

(3) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of any such compensation, shall be referred to and determined by the Lands Tribunal, and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982(60) (procedure on reference to the Lands Tribunal and costs) applies to any such determination.

## SCHEDULE 15

Regulation 31

### APPEALS FROM DECISIONS WITH RESPECT TO PERMITS

1.—(1) A person who wishes to appeal to the Planning Appeals Commission under regulation 31 shall give to the Planning Appeals Commission written notice of the appeal, together with a statement of the grounds of the appeal.

(2) An appellant may withdraw an appeal by notifying the Planning Appeals Commission in writing.

2. Notice of appeal in accordance with paragraph 1 is to be given—

- (a) in the case of an appeal under regulation 31(1) (a) to (e), before the expiry of the period of six months beginning with the date of the decision or deemed decision which is the subject matter of the appeal;
- (b) in the case of an appeal under regulation 31(1)(f), before the expiry of the period of 21 days beginning with the date on which the determination is notified to the person concerned or the determination is deemed to have been made under regulation 35(4);
- (c) in the case of an appeal under regulation 31(2) against a revocation notice, before the date on which the revocation takes effect; or
- (d) in the case of an appeal under regulation 31(2) against a variation notice, an enforcement notice or a suspension notice, before the expiry of the period of two months beginning with the date of that notice.

3. The enforcing authority shall, within 14 days of receipt of notification of an appeal from the Planning Appeals Commission, provide the Planning Appeals Commission with the names and addresses of—

- (a) any person who was required to be given notice of the subject matter of the appeal under paragraph 12 of Schedule 4 or paragraph 5(3)(b) or 12(3)(c) of Schedule 7;
- (b) any person who made representations to the enforcing authority with respect to the subject matter of the appeal; and

- (c) any person who appears to the enforcing authority to have a particular interest in the subject matter of the appeal.

4.—(1) The Planning Appeals Commission shall determine the appeal and paragraphs (1), (3), (4) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991 shall apply in relation to the determination of the appeal as they apply in relation to the determination of an appeal under that Order.

(2) If either party to the appeal so requests, the Planning Appeals Commission shall afford to each of them an opportunity of appearing before and being heard by the Planning Appeals Commission.

(3) A hearing held under sub-paragraph (2) may, if the Planning Appeals Commission so decides, be held wholly or held to any extent, in private.

## SCHEDULE 16

Regulation 33

### REGISTERS

- 1.—(1) A register maintained by an enforcing authority under regulation 33 shall contain—
- (a) all particulars of any application made to the enforcing authority for a permit;
  - (b) all particulars of any notice to the applicant by the enforcing authority under Schedule 4 or Schedule 7 and of any information furnished in response to such a notice;
  - (c) all particulars of any advertisement published pursuant to Schedule 4 or Schedule 7 and of any representations made by any person in response to such an advertisement, other than representations which the person who made them requested should not be placed in the register;
  - (d) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by the enforcing authority that representations have been made which have been the subject of such a request (but such statement shall not identify the person who made the representations in question);
  - (e) all particulars of any representations made by any person required to be given notice under Schedule 4 or Schedule 7;
  - (f) all particulars of any permit granted by the enforcing authority;
  - (g) all particulars of any notification to the enforcing authority given under regulation 18(1);
  - (h) all particulars of any application made to the enforcing authority for the variation, transfer or surrender of a permit;
  - (i) all particulars of any variation, transfer and surrender of any permit granted by the enforcing authority;
  - (j) all particulars of any revocation of a permit granted by the enforcing authority;
  - (k) all particulars of any enforcement notice or suspension notice issued by the enforcing authority or closure notice issued by the chief inspector under regulation 16(1) of the 2003 Landfill Regulations;
  - (l) all particulars of any notice issued by the enforcing authority withdrawing an enforcement notice or a suspension notice;
  - (m) all particulars of any notice of appeal under regulation 31 against a decision by the enforcing authority or a notice served by the enforcing authority, along with a statement of the grounds of appeal, a copy of any relevant correspondence between the appellant and



- the enforcing authority, and a copy of any decision or notice which is the subject matter of the appeal;
- (n) all particulars of any representations with respect to the subject matter of the appeal made by any person mentioned in paragraph 3 of Schedule 15, other than representations which the person who made them requested should not be placed in the register;
  - (o) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by the enforcing authority that representations have been made which have been the subject of such a request (but such statement shall not identify the person who made the representations in question);
  - (p) all particulars of any written notification of the determination by the Planning Appeals Commission of such an appeal and any report accompanying any such written notification;
  - (q) details of any conviction of or formal caution given to any person for any offence under regulation 36(1) or regulation 17(1) of the 2003 Landfill Regulations which relates to the operation of an installation or mobile plant under a permit granted by the enforcing authority, or without such a permit in circumstances where one is required by regulation 9, including the name of the person, the date of conviction or formal caution, and, in the case of a conviction, the penalty imposed and the name of the Court;
  - (r) all particulars of any monitoring information relating to the operation of an installation or mobile plant under a permit granted by the enforcing authority which has been obtained by the enforcing authority as a result of its own monitoring or furnished to the enforcing authority in writing by virtue of a condition of the permit or under regulation 32(2);
  - (s) in a case where any such monitoring information is omitted from the register by virtue of regulation 35, a statement by the enforcing authority, based on the monitoring information from time to time obtained by or furnished to them, indicating whether or not there has been compliance with any relevant condition of the permit;
  - (t) all particulars of any other information furnished to the authority in compliance with a condition of the permit, a variation notice, enforcement notice or suspension notice, or regulation 32(2) of these Regulations or a closure notice under regulation 16(1) of the 2003 Landfill Regulations;
  - (u) all particulars of any report published by an enforcing authority relating to an assessment of the environmental consequences of the operation of an installation in the locality of premises where the installation is operated under a permit granted by the enforcing authority;
  - (v) all particulars of any direction given to the enforcing authority by the Department under any provision of these Regulations;
  - (w) all particulars of any conditioning plan submitted under paragraph 1(3) of Schedule 4 to the 2003 Landfill Regulations or notice given under paragraph 1(5) of that Schedule;
  - (x) all particulars of any notice of a decision under paragraph 1(6) of Schedule 4 to the Landfill Regulations;
  - (y) all particulars of any notification or report required before definitive closure of a landfill under regulation 15(4) of the 2003 Landfill Regulations; and
  - (z) all particulars of any advertisement under paragraph 19 of Schedule 4 or paragraph 9 of Schedule 7, the information specified in paragraph 20 of Schedule 4, or 10 of Schedule 7 and all particulars of any representations made by any person in response to such an advertisement, other than representations which the person who made them requested should not be placed on the register.

(2) In the case of a Part A installation or Part A mobile plant, excluding those engaged in the activities described in paragraphs (b), (d), (g) or (h) of Part A of section 5.1, the register shall contain—

- (a) the content of any decision on granting, reconsideration or updating of a permit;
- (b) the reasons on which the decision was based;
- (c) an explanation of how any representations were taken into account;
- (d) the title of BAT reference documents relevant to the installation or activity concerned;
- (e) how the permit conditions including emission limit values, have been determined in relation to the best available techniques and emission levels associated with the best available techniques;
- (f) where a derogation is granted in accordance with regulation 13(3), the specific reasons for that derogation and the conditions imposed; and
- (g) upon definitive cessation of activities, information provided by the operator in accordance with regulation 22(4)(c) and (d).

(3) In the case of a Part A installation or Part A mobile plant, excluding those engaged in the activities described in paragraphs (b), (d), (g) or (h) of Part A of section 5.1, the information listed in sub-paragraph 1(f), and (i), 2(a), (b), (f) and (g) shall be made available by the chief inspector via the internet.

2. Where an application is withdrawn by the applicant at any time before it is determined, all particulars relating to that application which are already in the register shall be removed from the register not less than two months and not more than three months after the date of withdrawal of the application, and no further particulars relating to that application shall be entered in the register.

3. Where, following an amendment of Schedule 1, these Regulations cease to apply to a description of installation or mobile plant, all particulars relating to installations or mobile plant of that description shall be removed from the register by the enforcing authority not less than two months and not more than three months after the date on which the amendment comes into force.

4. Nothing in paragraph 1 requires an enforcing authority to keep in a register maintained by it—
- (a) monitoring information relating to a particular installation or a mobile plant for more than four years after that information was entered in the register; or
  - (b) information relating to a particular installation or mobile plant which has been superseded by later information relating to that installation or mobile plant for more than four years after that later information was entered in the register,

but this paragraph does not apply to any aggregated monitoring data relating to overall emissions of any substance or class of substance from installations or mobile plant generally or from any class of installations or mobile plant.

5. Any details of a formal caution included in a register pursuant to paragraph 1(q) shall be removed from the register, by the enforcing authority, after five years have elapsed since the date on which the caution was given.

## SCHEDULE 17

Regulation 44

## REVOCATIONS

**Table of revoked regulations**

| <b>Regulations revoked</b>   | <b>References</b>               | <b>Extent of revocation</b>                              |
|--|---------------------------------|--|
| The Pollution Prevention and Control Regulations (Northern Ireland) 2003   | <a href="#">S.R.2003 No.46</a>  | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Large Combustion Plants Regulations (Northern Ireland) 2003  | <a href="#">S.R.2003 No.210</a> | The whole Regulations from 1 <sup>st</sup> January 2016. |
| The Waste Incineration Regulations (Northern Ireland) 2003   | <a href="#">S.R.2003 No.390</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Waste Incineration (Amendment) Regulations (Northern Ireland) 2004   | <a href="#">S.R.2004 No.35</a>  | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Solvent Emissions Regulations (Northern Ireland) 2004  | <a href="#">S.R.2004 No.36</a>  | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Amendment) Regulations (Northern Ireland) 2004                                 | <a href="#">S.R.2004 No.507</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Amendment) and Connected Provisions Regulations (Northern Ireland) 2005        | <a href="#">S.R.2005 No.229</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Amendment) and Connected Provisions (No.2) Regulations (Northern Ireland) 2005 | <a href="#">S.R.2005 No.285</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Amendment) (No.3) Regulations (Northern Ireland) 2005                          | <a href="#">S.R.2005 No.454</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Miscellaneous Amendments) Regulations (Northern Ireland) 2006                  | <a href="#">S.R.2006 No.98</a>  | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Amendment) Regulations (Northern Ireland) 2007                                 | <a href="#">S.R.2007 No.245</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Amendment) Regulations (Northern Ireland) 2009                                 | <a href="#">S.R.2009 No.403</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Solvent Emissions (Amendment) Regulations (Northern Ireland) 2010  | <a href="#">S.R.2010 No.165</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Solvent Emissions (Amendment) Regulations (Northern Ireland) 2011  | <a href="#">S.R.2011 No.2</a>   | The whole Regulations from 7 <sup>th</sup> January 2014. |

| <b>Regulations revoked</b>  | <b>References</b>               | <b>Extent of revocation</b>                              |
|---|---------------------------------|--|
| The Pollution Prevention and Control (Amendment) Regulations (Northern Ireland) 2011            | <a href="#">S.R.2011 No.212</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Amendment No.2) Regulations (Northern Ireland) 2011       | <a href="#">S.R.2011 No.402</a> | The whole Regulations from 7 <sup>th</sup> January 2014. |
| The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012 | <a href="#">S.R.2012 No.453</a> | The whole Regulations.                                   |

## EXPLANATORY NOTE

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

These Regulations are made under Article 4(1) of the Environment (Northern Ireland) Order 2002. They transpose Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control (Recast)). They also replace existing legislation which is listed in Schedule 17.

### The list of controlled activities and the type of pollution control

The Regulations control the operation of any installations or mobile plant carrying out any of the activities listed in *Part 1 of Schedule 1* to the Regulations. Installations or mobile plant used to carry out activities listed under the heading “Part A” in Part 1 of Schedule 1 (Part A installations and mobile plant) are subject to integrated pollution control by the chief inspector. Those used to carry out activities listed under the heading “Part B” (Part B installations and mobile plant) are subject to air pollution control by the chief inspector. Those used to carry out activities listed under the heading “Part C” (Part C installations and mobile plant) are subject to air pollution control by district councils.

*Part 2 of Schedule 1* sets out some rules for the interpretation of Part 1 of the Schedule. *Part 3 of Schedule 1* sets out rules for the interpretation of “Part A installation” etc.

### Procedural and substantive requirements

*Part 1 of the Regulations (regulations 1 to 8)* sets out general provisions. There are definitions in *regulations 2 and 3*. *Regulation 7* determines which installations and mobile plant are regulated by the chief inspector and which by the district councils (see above). *Regulation 8* deals with the appointment of the chief inspector and other inspectors.

*Part 2* deals with the need for a permit to operate an installation or mobile plant covered by the Regulations (*regulation 9*), the procedure for granting permits and the contents of permits (*regulations 10 to 16 and Schedules 4 and 5*), and the treatment of permits once granted (*regulations 17 to 20 and Schedule 7*). The basic requirement for conditions of permits (*regulations 11 to 14*) is to impose emission limit values based on BAT. (“Best available techniques” is defined in *regulation 3* and *Schedule 2* sets out considerations which have to be taken into account when determining BAT). *Schedule 6* sets out the compensation provisions applicable where a person

is required under *regulation 13* to allow an operator of an installation or Part A mobile plant to carry out work on that person's land. *Regulation 15* provides for the Department to notify the chief inspector of conditions which it considers appropriate in relation to preventing or reducing emissions to water from Part A installations and mobile plant regulated by the chief inspector. *Regulation 16* enables the Department to make general binding rules containing requirements which may apply instead of conditions included in permits. *Regulations 17, 19, 20, 21, 22, 23 and 24* and *Schedule 7* deal with the review, variation, transfer, surrender and revocation of permits. *Regulation 18* requires the operator of a permitted installation to give the enforcing authority notice of any proposed change in the operation of that installation. *Regulation 25* provides for the Department to make charging schemes setting fees and charges to be paid in respect of applications made under the Regulations and in respect of variations, transfers, surrenders, appeals and the subsistence of permits.

*Part 3 (regulations 26 to 30)* contains the enforcement powers under the Regulations. *Part 4 (regulation 31)* and *Schedule 15* provide for appeals to the Planning Appeals Commission. *Part 5 (regulations 32 to 35)* and *Schedule 16* set out information gathering powers and publicity requirements. *Part 6 (regulations 36 to 39)* sets out offences for contraventions of the Regulations and provides for enforcement by the High Court and the admissibility of evidence. *Part 7 (regulations 40 to 42)* enables the Department to give directions and guidance to enforcing authorities and to make plans relating to emissions.

*Schedules 8 to 13* bring existing legislation in respect of solvent emissions, large combustion plants, titanium dioxide, waste incineration, petrol vapour recovery and asbestos into these regulations.

### **Transitional provisions**

*Schedule 3* sets out the transitional provisions for bringing installations and mobile plant under the control of the Regulations.

An impact assessment has been prepared and copies can be obtained from Environmental Policy Division, Department of the Environment, Goodwood House, 44-58 May Street, Town Parks, Belfast BT1 4NN. A copy has been placed in the Assembly library.