
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 98

ENVIRONMENTAL PROTECTION

The Pollution Prevention and Control (Miscellaneous Amendments) Regulations (Northern Ireland) 2006

Made - - - - *9th March 2006*

Coming into operation *23rd April 2006*

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

In accordance with Article 4(4) of that Order, it 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.

Citation and commencement

1. These Regulations may be cited as the Pollution Prevention and Control (Miscellaneous Amendments) Regulations (Northern Ireland) 2006 and shall come into operation on 23rd April 2006.

Amendment to the Pollution Prevention and Control Regulations (Northern Ireland) 2003

2.—(1) The Pollution Prevention and Control Regulations (Northern Ireland) 2003⁽²⁾ shall be amended as follows.

(2) In regulation 2 (Interpretation: general), after paragraph (2A) insert the following paragraph—

“(2B) For the purposes of these Regulations any change in operation of an installation which in itself meets any of the thresholds specified for a Part A activity under Part 1 of Schedule 1 shall be treated as a substantial change in operation.”

(3) In regulation 37 (Directions to enforcing authorities) after paragraph 3, insert the following paragraph—

“(3A) Where the Department receives information pursuant to Article 17(4) of the Directive, it shall, for the purpose of complying with that Article, direct the chief inspector

⁽¹⁾ S.I. 2002 No. 3153 (N.I. 7)

⁽²⁾ S.R. 2003 No. 46 as amended by S.R. No. 390, S.R. 2003 No. 496, S.I.2003/3311, S.R. 2004 No. 36, S.R. 2004 No. 297, S.R. 2004 No. 507, S.R. 2005 No. 285, S.R. 2005 No. 300 and S.R. 2005 No. 454

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.”

- (4) In Schedule 1 (Activities, Installations and Mobile Plant)—
- (a) in Section 1.2 (Gasification, Liquefaction and Refining Activities), under the heading “Interpretation of Part A”, in paragraph 3, after the word “has” insert the word “not”;
 - (b) in Part A of Section 4.7 (Manufacturing Activities Involving Carbon Disulphide or Ammonia) in paragraph (a) for the words “paragraph (c)” substitute “paragraph (a)”;
 - (c) in paragraph (h) of Part A of Section 5.1 (Incineration and Co-Incineration of Waste) delete the words “, nitrogen or sulphur”;
 - (d) after paragraph (h) of Part A of Section 5.1 (Incineration and Co-Incineration of Waste) insert the following paragraph—
 - “(i) The incineration of animal carcasses or animal waste in a plant which is not an incineration plant or a co-incineration plant, with a capacity of less than 1 tonne per hour but with a treatment capacity of more than 10 tonnes per day of animal carcasses or animal waste or, in aggregate, of both.”,
 - (e) in the definition of “excluded plant” under the heading “Interpretation of Section 5.1”—
 - (i) for paragraph (vii) substitute the following paragraph—
 - “(vii) animal carcasses as regulated by Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3rd October 2002 laying down health rules concerning animal by-products for human consumption; or”;
 - (ii) for paragraph (viii) substitute the following paragraph
 - “(viii) waste resulting from exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installation; and”
- (5) In Schedule 3 (Prescribed Date and Transitional Arrangements), in the Table in paragraph 2(2) of Part 1—
- for the words—

“Section 6.4	1st-30th April 2006”
substitute the words	
“Section 6.4(a)	1st-30th April 2008
Section 6.4 (b)-(d)	1st-30th April 2006”

- (6) In Schedule 4 (Grant of Permits)—
- (a) in paragraph 1, after sub-paragraph (o) insert the following sub-paragraph—
 - “(oo) in the case of an application for a permit to operate a Part A installation, an outline of the main alternatives, if any, studied by the applicant;”;
 - (b) in paragraph 6(e), after the word “where” insert the words “, and in the case of an application for a permit to operate a Part A installation, how and what times,”;
 - (c) after paragraph 6 insert the following paragraph—

“**6A.** In the case of an application for a permit to operate a new Part A installation, the advertisement required by paragraph 5 shall, in addition to the information required by paragraph 6—

- (a) explain that the particulars of the application contained in the register specified in paragraph 6(e) include a description of the elements listed in paragraph 1(1); 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 17.”;
- (d) in paragraph 7, after the words “paragraphs 1 and 6” insert the words “(and where applicable 6A)”;
- (e) in paragraph 12, for sub-paragraph (2)(c) substitute the following sub-paragraph—
 - (c) “(2) 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 5 or 15A.”;
- (f) in paragraph 15, for sub-paragraph (1) substitute the following sub-paragraph—
 - “(1) Except in a case where an application has been referred to the Department under paragraph 14 and subject to paragraph 18, the enforcing authority shall give notice of—
 - (a) for new Part A installations and for existing Part A installations where there is a substantial change to the operation of the installation, 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 new Part A mobile plant and for existing Part A mobile plant where there is a substantial change to the operation of the 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;
 - (c) for existing Part A installations and existing Part A mobile plant other than those referred to in head (a) or head (b), its determination of an application for a permit, within the period of nine months beginning with the day on which it received the duly made application;
 - (d) for new Part B and Part C installations and new 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;
 - (e) in any case, within such longer period as may be agreed with the applicant.”;
- (g) after paragraph 15 insert the following paragraphs—
 - “15A.—(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 15(1)(a), advertise the notice on its web-site, and if it considers 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.

15B.—(1) An advertisement required by paragraph 15A shall—

- (a) explain where, how and 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 5;
 - (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 18A 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 starting 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 18A 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 18A 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 starting 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 18A 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 15A (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 practicable after the date of receipt.”;
- (h) in paragraph 16—
- (i) after the words “its determination” insert the words “or draft determination”;
 - (ii) for the words “the period” substitute the words “the applicable period”;
 - (iii) for the words “paragraph 15” substitute the words “paragraph 15 or paragraph 15B”;
- (i) in paragraph 17—
- (i) for the words from “the Department shall forward a copy” to the words “pursuant to paragraph 5” substitute the following—
 - “the Department shall forward—
 - (a) a copy of the application to operate the installation together with a copy of the advertisement made under paragraph 5; and
 - (b) where applicable, a copy of the draft determination in respect of that application together with a copy of the advertisement made under 15A, to the other Member State at the same time as the application or draft determination are advertised pursuant to paragraph 5 or 15A”;
 - (ii) for the words from “after the application” to the words “in order that the application” substitute the following—
 - “after the application or draft determination is advertised but before the application is determined) in order that the application or draft determination”;
- (j) in paragraph 18—
- (i) in sub-paragraph (1)(a) after the word “application” where it first appears insert the words “or provide his draft determination”;
 - (ii) in sub-paragraph (1)(b) after the word “determination” insert the words “or to provide a draft determination”;
- (k) after paragraph 18, insert the following paragraph—
- “**18A.**—(1) 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.”;
- (l) for paragraph 19, substitute the following paragraph—
- “**19.**—(1) For the purposes of Parts 1 and 2 of this Schedule—
- “new Part A installation” shall be interpreted in accordance with paragraph 6 of Part 1 of Schedule 3; and

“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.

(2) in paragraphs 17, 18 and 18A, “Member State” shall be taken to include Norway, Iceland and Liechtenstein.”.

(7) In Schedule 7 (Variation of Conditions)—

(a) in paragraph 4—

(i) in sub-paragraph (1)(b) for the words from “will authorise” to the words “or mobile plant” substitute the following—

“will—

(i) authorise a substantial change in the operation of an installation or a mobile plant; or

(ii) vary the conditions of a permit to operate a Part A installation as a result of a review under regulation 15(2)(a).”;

(ii) in sub-paragraph (2) for the words from “no substantial change” to the end substitute the following “sub-paragraph (1) does not apply.”;

(iii) in sub-paragraph (5) after head (c), insert the following head—

“(d) in the case of a proposed variation notice affecting the operation of a Part A installation, provide the operator with—

(i) information on the reasons and considerations on which that proposed variation notice is based;

(ii) information on any guidance issued by the Department to the enforcing authority relevant to the determination of the proposed variation.”;

(iv) in sub-paragraph (9)—

(aa) for head (d) substitute the following head—

“(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 application or proposed variation;

(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 sub-paragraph 5(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.”;

(bb) after head (f), insert the following head—

“(g) in the case of a variation affecting the operation of a Part A installation—

(i) explain that the particulars of the application contained in the register specified in paragraph (d) include a description of the elements listed in paragraph 1;

(ii) in the case of a proposed variation notice, describe the contents of that notice;

- (iii) where applicable, state that the determination of the application or 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 9;
 - (iv) where applicable, explain that any guidance issued by the Department to the enforcing authority relevant to the determination of the proposed variation which has been provided to the operator under sub-paragraph (5)(d)(ii), has been included in the register.”; and
 - (v) in sub-paragraph (12), for head (b) substitute the following head—
 - “(b) in the case of other persons—
 - (i) for applications or proposed variations, the period of 42 days; and
 - (ii) for draft determinations, the period of 20 working days, beginning with the date on which the application, the proposed variation notice, or the draft determination is advertised pursuant to sub-paragraph (8) or paragraph 7A.”;
- (b) after paragraph 6, insert a new paragraph as follows—
 - “**6A.**—(1) In the case of a proposed variation notice affecting the operation of a Part A installation to which the consultation and advertising procedure set out in paragraph 4 applies—
 - (a) where no representations are made to the enforcing authority within the period specified in paragraph 4(12) 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 10(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 9 applies, forward a copy of the variation notice and the information in sub-head (ii) to the Department, within the period of 5 working days starting with the day on which the period allowed by paragraph 4(12) 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 10(b); or
 - (b) where representations are made within the period specified in paragraph 4(12) 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 10(b), the enforcing authority shall—
 - (i) give notice of its determination;
 - (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 f, and if it considers it appropriate, by any other means; and

(iv) where paragraph 9 applies, forward a copy of the variation notice and the information in sub-head (ii) to the Department,

within the period of 15 working days starting with the day on which the period allowed by paragraph 4(12) 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 10(b) or within such longer period as may be agreed with the applicant.

(2) The Department shall forward to the Member State to which the proposed variation has been forwarded under paragraph 9, a copy of the variation notice and the information specified in sub-paragraph (1)(a)(ii) or (1)(b)(ii) as the case may be, 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 or to give notice of its determination, as the case may be, 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.”;

(c) for paragraph 7, substitute the following paragraphs—

“7.—(1) Except in a case where an application has been referred to the Department under paragraph 6 and subject to paragraph 10, the enforcing authority shall give notice of—

- (a) its determination of an application under regulation 17(2); or
- (b) in the case of an application under regulation 17(2) for a variation to which paragraph 4(1)(b)(i) applies and which affects the operation of a Part A installation, its draft determination,

within the period specified in sub-paragraph (2).

(2) The period for the purposes of sub-paragraph (1) is as follows—

- (a) where the consultation and advertising procedure set out in paragraph 4 applies, the period of six months beginning with the day on which the enforcing authority received the application,
- (b) where that procedure does not apply, the period of three months beginning with the day on which the enforcing authority received the application;

or, 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 3 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 5 in so far as that period does not overlap with any other period allowed for making representations in accordance with paragraph 4(12);
- (c) where the matter falls to be determined under regulation 31 or 32 any period beginning with the date on which the period of 28 days referred to in paragraph 4(8) ends and ending on the date on which the application is advertised in accordance with paragraph 15(b).

7A.—(1) The enforcing authority shall—

- (a) within the period of 3 working days beginning with the date on which notice of a draft determination is given pursuant to paragraph 7, advertise the draft 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 9, 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 application is advertised.

7B.—(1) An advertisement required by paragraph 7A shall—

- (a) explain where, how and 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 4(8);
 - (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 11A 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 11A 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 11A, 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 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 11A 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 7A(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 9, copies of the documents specified in the previous head as soon as possible after the date of receipt.”;

(d) in paragraph 8—

- (i) after the words “its determination” insert the words “or draft determination”;
- (ii) for the words “the period” substitute the words “the applicable period”;
- (iii) for the words “paragraph 7” substitute the words “paragraph 7 or paragraph 7B”;

(e) in paragraph 9—

(i) for the words from “the Department shall forward a copy” to the words “pursuant to paragraph 4(8)” substitute the following—

“the Department shall forward—

- (a) a copy of the application or proposed variation notice and a copy of the advertisement made under paragraph 4(8); 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 7A,

to the other Member State at the same time as the application, proposed variation notice or draft determination notice are advertised pursuant to paragraphs 4(8) and 7(A)”;

(ii) for the words from “after the application or proposed variation notice” to the words “in order that the application or proposed variation notice” substitute the following—

“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”;

- (f) in paragraph 10—
 - (i) in sub-paragraph (a) after the word “application” where it first appears insert the words “or provide his draft determination”;
 - (ii) in sub-paragraph (b)—
 - (aa) after the words “determine the application” insert the words “or to provide a draft determination”;
 - (bb) for the words “paragraph 7(1)(a)” substitute the words “paragraph 7(2)(a)”;
- (g) After paragraph 11, insert the following paragraph—

“**11A.** 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.”;
- (h) For paragraph 12, substitute the following paragraph—

“**12.**—(1) For the purposes of Part 2 of this Schedule “working day” has the same meaning as in paragraph 19(1) of Schedule 4.

(2) In Paragraphs 9 to 11 and 11A, “Member State” shall be taken to include Norway, Iceland and Liechtenstein.”.
- (8) In Schedule 10 (Registers) after paragraph 1(aa) insert a new sub-paragraph (bb) as follows—

“(bb) all particulars of any advertisement under paragraph 15A of Schedule 4 or paragraph 7A of Schedule 7, the information specified in paragraphs 15B of Schedule 4 or 6A or 7B 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.”.

Transitional Provisions

- 3.**—(1) These Regulations shall not apply to—
- (a) an application for a permit under regulation 10 or an application for a variation of the conditions of a permit under regulation 17(2) of the 2003 Regulations; or
 - (b) a variation notice which has been served on the operator pursuant to paragraph 4(5)(b) of Part 2 of Schedule 7 to the 2003 Regulations,
- before the date of coming into operation of these Regulations and the procedure prescribed by the 2003 Regulations immediately before these Regulations came into operation shall continue to apply in relation to any such application or variation notice.
- (2) For the purposes of this regulation—
- “the 2003 Regulations” means the Pollution Prevention and Control Regulations (Northern Ireland) 2003.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Sealed with the Official Seal of the Department of the Environment on 9th March 2006

L.S.

Ian T. Maye
A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under Article 4 of the [Environment \(Northern Ireland\) Order 2002 \(2002 No. 3153 \(N.I. 17\)\)](#), implement in Northern Ireland the amendments to the public participation provisions in Directive [96/61/EC](#) made by Article 4 of Directive [2003/35/EC](#) providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives [85/337/EEC](#) and [96/61/EC](#) (the Public Participation Directive). They also make other miscellaneous amendments to the Pollution Prevention and Control Regulations ([S.R. 2003 No. 46](#)) (the 2003 Regulations).

The requirements of Directive [96/61/EC](#) concerning integrated pollution prevention and control have been implemented in Northern Ireland by means of the Pollution Prevention and Control Regulations ([S.R. 2003 No. 46](#)) (the 2003 Regulations).

These Regulations amend regulation 2 and the procedures for public participation in Schedules 4 (Grant of Permits) and 7 (Variation of Conditions) to the 2003 Regulations in order to implement the additional public participation requirements in paragraphs 1 to 3, 5 and 6 of Article 4 of the Public Participation Directive. These requirements apply to all applications for permits to operate new Part A installations and to variations authorising substantial changes in operation of a Part A installation or variations resulting from a review by the enforcing authority of a Part A installation under regulation 15(2)(a) of the 2003 Regulations.

Regulation 2(2) inserts a new paragraph (2B) in regulation 2 of the 2003 Regulations (Interpretation: general) to expand the definition of “substantial change in operation” as required by paragraph 1(a) of Article 4 of the Public Participation Directive.

Regulation 2(3) inserts a new paragraph (3A) in regulation 37 of the 2003 Regulations (Directions to enforcing authorities) to make information relating to decisions made in other Member States available to those people affected in Northern Ireland, as required by Article 17(4) of the Public Participation Directive.

Regulation 2(4) makes other miscellaneous amendments to Part 1 of Schedule 1 (Activities) to the PPC Regulations. In particular, Regulation 2(4)(d) inserts a new paragraph (i) in Part A of Section 5.1 (Incineration and Co-Incineration of Waste) adding another category relating to incineration and co-incineration of waste.

Regulation 2(5) amends Section 6.4 of the table in paragraph 2(2) of Part 1 of Schedule 3 (Prescribed Date and Transitional Arrangements).

Regulation 2(6) amends Schedule 4 of the 2003 Regulations, which sets out the procedures for the application and determination of permits made under regulation 10 of those Regulations. In particular—

- (i) Regulation 2(6)(a) adds a new sub-paragraph (oo) to the list of information specified in paragraph 1 of Schedule 4 which needs to be provided with the application;
- (ii) Regulations 2(6)(b) to (l) extend the public participation requirements in Parts 1 and 2 of Schedule 4 to apply the new requirements in Article 4 of the Public Participation Directive to applications for permits to operate new Part A installations, within the meaning of paragraph 6 of Part 1 of Schedule 3 to the 2003 Regulations;

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- (iii) Regulations 2(6)(b) and (c) provide for additional advertisement requirements in respect of applications for permits to operate new Part A installations;
- (iv) Regulations 2(6)(f) to (l) amend the provisions in Part 1 and 2 of Schedule 4 to provide for a new “draft determination” stage, which includes additional obligations to advertise, to inform other Member States in the case of installations with transboundary effects, to allow for representations from interested parties, and to provide or make available the additional information in Annex V Public Participation Directive.

Regulation 2 (7) amends Schedule 7 to the 2003 Regulations, which sets out the procedures for the variation of conditions of permits under regulation 17 of those Regulations. In particular—

- (i) Regulations 2(7)(a) to (i) extend the public participation requirements in Parts 2 of Schedule 7 (Determination of Applications for Variations and Variation Notices) to apply the new requirements in Article 4 of the Public Participation Directive to—
 - (aa) variations authorising substantial changes in the operation of Part A installations; and
 - (bb) variations in the conditions of a permit to operate a Part A installation proposed by the enforcing authority and resulting from a review under regulation 15(2)(a) of the 2003 Regulations;
- (ii) Regulation 2(7)(a) amends paragraph 4 of Schedule 7 to the 2003 Regulations to require the enforcing authority to furnish the operator with additional information as well as to provide for additional advertisement requirements in respect of variations affecting the operation of Part A installations;
- (iii) Regulations 2(7)(b) to (i) insert, for variations affecting Part A installations, a new “post-advertisement” stage in respect of variations proposed by the enforcing authority and a “draft variation” stage in respect of applications for variations, including, as in the case of applications for permits to operate Part A installations, additional obligations in relation to advertising, the provision of information to other Member States in the case of installations with transboundary effects, new representation requirements, and the obligation to provide or make available information specified in Annex V to the Public Participation Directive.

Regulation 2 (8) inserts a new sub-paragraph to Schedule 10 (Registers) to require the enforcing authority to include in the register the information resulting from the new public participation requirements specified by these Regulations.

Regulation 3 sets out transitional provisions clarifying that the requirements in these Regulations do not apply to applications for permits or variations or proposed variations in respect of which the operator applied, or the enforcing authority notified to the operator, at a date prior to the date of coming into operation of these Regulations.