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STATUTORY RULES OF NORTHERN IRELAND

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**2012 No. 453**

**The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012**

**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; and
  - (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(1) 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—

“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).