

STATUTORY INSTRUMENTS

S.I. No. 395 of 2004

WASTE MANAGEMENT (LICENSING) REGULATIONS 2004

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PROVISIONS OF COMMUNITY ACTS WHICH ARE TO BE GIVEN EFFECT IN RELEVANT WASTE LICENCES GRANTED BY THE AGENCY

S.I. No. 395 of 2004

WASTE MANAGEMENT (LICENSING) REGULATIONS 2004

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 7, 18, 19, 39, 40, 41, 42, 44, 45, 46, 50, 53 and 53A of the Waste Management Act 1996 (as amended) and by section 3 of the European Communities Act 1972 (No. 27 of 1972), hereby makes the following Regulations:-

PART I

PRELIMINARY AND GENERAL

Citation and commencement.

1. (1) These Regulations may be cited as the Waste Management (Licensing) Regulations 2004.
- (2) These Regulations shall come into operation on the 12th day of July 2004.

Revocations.

2. (1) Subject to sub-article (2), the Regulations specified in the First Schedule to these Regulations are hereby revoked.
- (2) The provisions of the Regulations revoked shall, notwithstanding sub-article (1), continue to apply and have effect in relation to any application that is made, or any review that is notified under section 42(1)(b) of the Act, before the coming into operation of these Regulations.

Purpose of Regulations.

3. The purposes for which these Regulations are made include the purpose of giving effect to provisions of -
 - (a) Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils, as amended by Council Directive 87/101/EEC of 22 December 1986¹,

¹ O.J. No. L 194/23, 25 July 1975, and O.J. No. L 42/43, 12 February 1987.

- (b) Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991²,
- (c) Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances³,
- (d) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC of 3 March 1997⁴,
- (e) Council Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos⁵,
- (f) Council Directive 91/689/EEC of 12 December 1991 on hazardous waste⁶,
- (g) Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls⁷,
- (h) Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control⁸, and
- (i) Council Directive 99/31/EC of 26 April 1999 on the landfill of waste⁹.

Interpretation generally.

4. (1) In these Regulations, any reference to a Schedule, Part or article that is not otherwise identified is a reference to a Schedule, Part or article of these Regulations.
- (2) In these Regulations, any reference to a sub-article or paragraph that is not otherwise identified is a reference to the sub-article or paragraph of the provision in which the reference occurs.
- (3) In these Regulations, save where the context otherwise requires -
- “the Act” means the Waste Management Act 1996, as amended by the Waste Management (Amendment) Act 2001 (No. 36 of 2001), the Planning and Development Act 2000 (No. 30 of 2000) and the Protection of the Environment Act 2003 (No. 27 of 2003);
- “the Act of 1992” means the Environmental Protection Agency Act 1992 (No. 7 of 1992) as amended by the Protection of the Environment Act 2003;

² O.J. No. L 194/39, 25 July 1975, and O.J. No. L 78/32, 26 March 1991.

³ O.J. No. L 20/43, 26 January 1980.

⁴ O.J. No. L 175/40, 5 July 1985, and O.J. No. L 73/5 of 14 March 1997.

⁵ O.J. No. L 85/40, 28 March 1987.

⁶ O.J. No. L 377/20, 31 December 1991.

⁷ O.J. No. L 243/31, 24 September 1996.

⁸ O.J. No. L 257/26, 10 October 1996.

⁹ O.J. No. L 182/1, 16 July 1999.

“the Act of 2000” means the Planning and Development Act 2000;

“the Agency” means the Environmental Protection Agency established under section 19 of the Act of 1992;

"application" means an application for a waste licence or for the review of a waste licence;

"applicant" means an applicant for a waste licence or for the review of a waste licence;

"decontamination", in relation to PCBs, used PCBs and equipment containing PCBs, means any operation which enables equipment, objects, materials or fluids contaminated by PCBs to be recovered or disposed of without causing environmental pollution, including the replacement of PCBs by fluids which do not contain PCBs, and "decontaminated" shall be construed accordingly;

"development" has the meaning assigned to it in the Act of 2000;

“inert waste” means waste –

- (i) that does not undergo any significant physical, chemical or biological transformations;
- (ii) that will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter, or be adversely affected by other matter, including waters, with which it comes into contact in a way that causes or is likely to cause environmental pollution, and
- (iii) in particular, will not endanger the quality of surface water or groundwater;

“infectious” means, in relation to waste, substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in persons or other living organisms;

“Landfill Directive” means Council Directive 99/31/EC of 26 April 1999 on the landfill of waste¹⁰;

“leachate” has the meaning assigned to it in section 5 of the Act, and “leachability” and “leaching behaviour” shall be construed accordingly;

“liquid waste” means any waste in liquid form, including waste waters but excluding sludge;

“integrated pollution prevention and control licence” means a licence or revised licence granted under Part IV of the Act of 1992 to which a landfill facility is subject;

"Member State" means a Member State of the European Communities;

¹⁰ O.J. No. L 182/1, 16 July 1999

“mobile plant” means any plant used for or in relation to the holding, recovery or disposal of waste, which is designed to be transported between, and used at, different facilities, other than mobile plant used for the disposal of waste for the time being specified in section 51(2)(a) of the Act;

“new landfill facility” means a landfill facility which –

- (i) came or comes into operation, and
- (ii) is subject to a waste licence or an integrated pollution prevention and control licence that was or is granted,

on or after 16 July 2001;

"objection" means an objection under section 42 of the Act and “objector” shall be construed accordingly;

"oral hearing" means an oral hearing under section 42 of the Act;

"party to the objection" means any of the following persons -

- (i) the objector,
- (ii) the applicant for a waste licence, or the licensee in the case of a review of a waste licence, in relation to which an objection is made by another person (other than a person acting on behalf of the applicant or licensee),

and "party" shall be construed accordingly;

"PCBs" means -

- (i) polychlorinated biphenyls,
- (ii) polychlorinated terphenyls,
- (iii) monomethyl-tetrachlorodiphenyl methane,
- (iv) monomethyl-dichloro-diphenyl methane,
- (v) monomethyl-dibromo-diphenyl methane, or
- (vi) any mixture containing in excess of 0.005% by weight of any of the substances specified at (i) to (v);

"PCB contaminated equipment" means any equipment (including any transformer, power capacitor or receptacle containing residual stocks) which -

- (i) contains PCBs, or
- (ii) having contained PCBs, has not been decontaminated;

"Planning and Development Regulations" means the Planning and Development Regulations 2001 to 2003;

"planning permission" means a permission granted under Part III of the Act of 2000;

"the register" means the register established by the Agency under section 19 of the Act;

"review of a waste licence" means a review of a waste licence under section 46 of the Act;

"tyres" means all tyres other than bicycle tyres and tyres with an outside diameter of more than 1,400 millimetres;

"waste licence" means a waste licence for the purposes of Part V of the Act;

"waste oils" means any mineral-based lubrication or industrial oils which have become waste (including used combustion engine oils, gearbox oils, mineral lubricating oils, oils for turbines and hydraulic oils).

- (4) Any equipment of a type which is likely to contain PCBs shall for the purposes of these Regulations, be considered as containing PCBs unless it is reasonable to assume the contrary.
- (5) Where any part of a facility for the recovery or disposal of waste is located in an area which is not within the functional area of any local authority, the facility shall be deemed, for the purposes of these Regulations, to be a facility which is not located within the functional area of a local authority.

PART II

NOTICES REGARDING APPLICATIONS FOR OR REVIEWS OF WASTE LICENCES

Notice of intention to apply to the Agency for a waste licence or the review of a waste licence.

5. An applicant shall
 - (a) within the period of two weeks before the making of an application for a waste licence or for the review of a waste licence, publish notice of the intention to make the application in a newspaper circulating in the area or areas in which the activity is or will be carried on, in accordance with article 6, and
 - (b) not later than the making of the application in question, give notice of the application by the erection or fixing of a site notice on each facility or premises concerned, in accordance with article 7.

Notices in newspapers.

6. A notice published in a newspaper pursuant to article 5 shall contain as a heading the words "APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A WASTE LICENCE" or "APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR THE REVIEW OF A WASTE LICENCE", as the case may be, and shall -

- (a) give the name and address of the applicant,
- (b) state the location or postal address (including, where appropriate, the name of the townland or townlands) and the National Grid reference of each facility or premises to which the application relates,
- (c) specify the nature of the development, the type of plant (where applicable), the class or classes of activity concerned, in accordance with the Third and Fourth Schedules of the Act, the quantity and nature of wastes involved and in the case of two or more activities, identify the principal activity,
- (d) where the application is required to be accompanied by an environmental impact statement in accordance with Part III, state that such a statement will be submitted to the Agency with the application,
- (e) state that a copy of
 - (i) the application for a waste licence or for the review of a waste licence, as the case may be,
 - (ii) the environmental impact statement (where the application is required to be accompanied by such statement in accordance with Part III), and
 - (iii) such further information relating to the application as may be furnished to the Agency in the course of the Agency's consideration of the application,

will, as soon as is practicable after receipt by the Agency, be available for inspection or purchase, at the headquarters of the Agency and, where the applicant is a local authority, at the principal office of the said authority.

Site notices.

7. (1) A site notice erected or fixed on any facility or premises pursuant to article 5 shall –
- (a) be painted or inscribed, or printed and affixed, on a durable material,
 - (b) be securely erected or fixed in a conspicuous position -
 - (i) on or near the main entrance to the facility or premises from a public road, or
 - (ii) on any other part of the facility or premises adjoining a public road,

and shall be so erected or fixed and the text shall be so painted, inscribed or printed that the notice shall be capable of being read by persons using the said public road.

- (2) Where a facility or premises to which an application for a waste licence or for the review of a waste licence relates does not adjoin a public road, a site notice shall be erected or fixed in a conspicuous position on the facility or premises so as to be easily visible and legible by persons outside the facility or premises.
- (3) A site notice erected or fixed on any facility or premises pursuant to article 5 shall be headed "APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A WASTE LICENCE" or "APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR THE REVIEW OF A WASTE LICENCE", as the case may be, and shall -
 - (a) indicate the site location or proposed location of the activity, and
 - (b) comply with the requirements specified in paragraphs (a), (c), (d) and (e) of article 6.
- (4) A site notice erected or fixed on any facility or premises pursuant to article 5 shall be maintained in position where erected or fixed for at least two months after the making of the relevant application, and shall be renewed or replaced if it is removed or becomes defaced or illegible within the period during which it is required to be displayed.

Further notice.

8. Where -

- (a) a period of more than two weeks has elapsed between the publication in a newspaper of a notice in accordance with article 5 and the making of the relevant application, or
- (b) it appears to the Agency that any notice published or given in pursuance of article 5 -
 - (i) if published in a newspaper, does not comply with the provisions of article 6, or
 - (ii) if erected or fixed on any facility or premises, does not comply with the provisions of article 7, or
 - (iii) is, because of its content or for any other reason, misleading or inadequate for the information of the public,

the Agency shall require the applicant to publish, erect or fix such further notice in such manner, whether in a newspaper or otherwise, for such period and in such terms as it may specify and to submit to it such evidence as it may specify in relation to compliance with any such requirement.

Notice to the relevant planning authority.

9. (1) An applicant, not being the local authority in whose functional area a facility or premises to which the relevant application relates is located, shall give written notice of the said application to any relevant planning authority.
- (2) A notice required to be given to a planning authority under subarticle (1) shall contain the information specified in article 6.

Notice by the Agency of intention to review a waste licence.

10. (1) Where the Agency proposes to initiate a review of a waste licence under section 46 of the Act, it shall publish a notice of such intention in a newspaper circulating in the area or areas in which the activity, the subject matter of the licence, is or will be carried on.
- (2) A notice given under section 42(1)(b) of the Act or published in accordance with sub-article (1) shall indicate the reference number given to the waste licence in the register established by the Agency under section 19 of the Act, and state the reason for the proposed review.
- (3) A notice given under section 42(1)(b) of the Act to a licensee -
 - (a) may require the licensee to furnish such submissions, plans, documents and other information and particulars as the Agency considers necessary for the purpose of the proposed review, and
 - (b) shall indicate that a submission relating to the proposed review may be made in writing to the Agency within one month of the date of the giving of the notice, and the Agency shall not give notice of a proposed decision under section 42(2) of the Act before the expiry of the said period.

PART III

APPLICATION FOR A WASTE LICENCE OR THE REVIEW OF A WASTE LICENCE

Making of an application to the Agency.

11. An application shall be submitted to the principal office of the Agency.

Contents of an application for a waste licence or the review of a waste licence.

12. (1) Subject to sub-article (2), in the case of an application for a waste licence, the application shall -
 - (a) give the name, address and, where applicable, any telephone number and telefax number of the applicant (and, if different, the operator of

the facility concerned), the address to which correspondence relating to the application should be sent and, if the applicant or operator is a body corporate, the address of its registered office or principal office,

- (b) give the name of the planning authority in whose functional area the relevant activity is or will be carried on,
- (c) in the case of a discharge of any trade effluent or other matter (other than domestic sewage or storm water) to a sewer of a sanitary authority, give the name of the sanitary authority in which the sewer is vested or by which it is controlled,
- (d) give the location or postal address (including, where appropriate, the name of the townland or townlands) and the National Grid reference of the facility or premises to which the application relates,
- (e) describe the nature of the facility or premises concerned, including the proposed capacity of the facility or premises and, in the case of an application in respect of the landfill of waste, the requirements specified in Annex 1 of the Landfill Directive,
- (f) specify the class or classes of activity concerned, in accordance with the Third and Fourth Schedules of the Act and, in the case of an application in respect of the landfill of waste, specify the class of landfill in accordance with Article 4 of the Landfill Directive,
- (g) specify, by reference to the relevant European Waste Catalogue codes as presented by Commission Decision 2000/532/EC of 3 May 2000¹¹, the quantity and nature of the waste or wastes which will be treated, recovered or disposed of,
- (h) specify the raw and ancillary materials, substances, preparations, fuels and energy which will be utilised in or produced by the activity,
- (i) describe the plant, methods, processes, ancillary processes, abatement, recovery and treatment systems and operating procedures for the activity,
- (j) provide information for the purpose of enabling the Agency to make a determination in relation to the matters specified in paragraphs (a) to (g) of section 40(4) of the Act,
- (k) give particulars of the source, location, nature, composition, quantity, level and rate of emissions arising from the activity and, where relevant, the period or periods during which such emissions are made or are to be made,
- (l) give details, and an assessment of the effects, of any existing or proposed emissions on the environment, including any environmental medium other than that into which the emissions are, or are to be,

¹¹ OJ No. L226 06.09.2000. p.3

made, and of proposed measures to prevent or eliminate or, where that is not practicable, to limit or abate such emissions,

- (m) identify monitoring and sampling points and indicate proposed arrangements for the monitoring of emissions and the environmental consequences of any such emissions,
 - (n) describe any proposed arrangements for the prevention, minimisation and recovery of waste arising from the activity concerned,
 - (o) describe any proposed arrangements for the off-site treatment or disposal of solid or liquid wastes,
 - (p) describe the existing or proposed measures, including emergency procedures, to prevent unauthorised or unexpected emissions and minimise the impact on the environment of any such emissions,
 - (q) describe the proposed measures for the closure, restoration, remediation or aftercare of the facility concerned, after the cessation of the activity in question,
 - (r) in the case of an application in respect of the landfilling of waste, give particulars of -
 - (i) such financial provision as is proposed to be made by the applicant, having regard to the provisions of Articles (7)(i) and (8)(a)(iv) of the Landfill Directive and section 53(1) of the Act, and
 - (ii) such charges as are proposed or made, having regard to the requirements of section 53A of the Act,
 - (s) state whether the activity is for the purposes of an establishment to which the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2000 (S.I. No. 476 of 2000) apply,
 - (t) in the case of an activity which gives rise or could give rise to an emission into an aquifer containing the List I and II substances specified in the Annex to Council Directive 80/68/EEC of 17 December 1979, describe the existing or proposed arrangements necessary to give effect to Articles 3, 4, 5, 6, 7, 8, 9 and 10 of the aforementioned Council Directive,
 - (u) include a non-technical summary of the information provided in accordance with paragraphs (a) to (t) of this sub-article.
- (2) In the case of an application for a waste licence in respect of the operation of mobile plant at more than one facility, the information specified in sub-article (1) shall, as appropriate, be provided in respect of the carrying on of the activity concerned at each such facility.

- (3) (a) An application for the review of a waste licence shall :
 - (i) state the grounds on which it is made,
 - (ii) specify the reference number given to the relevant licence in the register, and
 - (iii) include the information specified in sub-article (1) and such plans, documents and particulars as are specified under sub-article (4) to the extent and in such manner as may be specified in writing by the Agency.
 - (b) In the case of an application for the review of a waste licence, being an application relating to the proposed operation of mobile plant at a facility or facilities other than that or those to which the said licence relates, the application shall provide the information specified in sub-article (1) in respect of the carrying on of the activity concerned at each such facility, to the extent and in such manner as may be specified in writing by the Agency.
 - (c) An application for the review of a waste licence, being a licence relating to the operation of mobile plant at a facility or facilities, may not be made for the purpose of carrying on an activity other than the use of mobile plant at any such facility, and the Agency shall not be required to consider any such application.
- (4) Without prejudice to sub-articles 13(1) and (2), an application shall be accompanied by -
- (a) a copy of the relevant page of the newspaper or newspapers in which the notice in accordance with article 6 has been published,
 - (b) a copy of the text of the notice or notices erected or fixed in accordance with article 7,
 - (c) where appropriate, a copy of a notice or notices given to a planning authority under article 9,
 - (d) a copy of such plans, including a site plan or plans and location map or maps, and such other particulars, reports and supporting documentation as are necessary to identify and describe, as appropriate -
 - (i) the position of the notice in accordance with article 7,
 - (ii) the point or points from which emissions are made or are to be made, and

- (iii) the point or points at which monitoring and sampling are undertaken or are to be undertaken,
- (e) such fee as is appropriate having regard to the provisions of articles 40 and 41.
- (5)
 - (a) An application by a local authority in respect of the carrying on of an activity at a facility located within the functional area of the authority shall be accompanied by 2 copies of the application and of all accompanying documents and particulars as required under sub-article (4).
 - (b) An application other than one to which paragraph (a) refers shall be accompanied by 3 copies of the application or such other number of copies as the Agency shall determine and of all accompanying documents and particulars as required under sub-article (4).
 - (c) For the purpose of paragraphs (a) and (b), all or part of the necessary copies of the said application and associated documents and particulars may, with the agreement of the Agency, be submitted in a computer or other non-legible format specified by the Agency.

Certain applications to be accompanied by an environmental impact statement or to comply with other requirements where exemption has been granted.

- 13. (1) Where development is proposed to be carried out, being development which comprises or is for the purposes of a waste recovery or waste disposal activity, and is of a class for the time being specified under article 93 of the Planning and Development Regulations, an application in respect of the relevant activity shall, in addition to the matters prescribed in article 12, be accompanied by three copies of an environmental impact statement prepared in respect of the said development.
- (2) Where development is proposed to be carried out, being development which comprises or is for the purposes of a waste recovery or waste disposal activity, and is subject to a requirement under article 103 of the Planning and Development Regulations to submit an environmental impact statement, an application in respect of the relevant activity shall, in addition to the matters prescribed in article 12, be accompanied by three copies of the environmental impact statement prepared in respect of the said development.
- (3) Sub-articles (1) and (2) shall not apply where the provisions of an order made under section 54(7) of the Act or an exemption granted under section 172(3) of the Act of 2000 apply.
- (4) An environmental impact statement submitted to the Agency in accordance with sub-articles (1) and (2) shall comply with article 94 of the Planning and Development Regulations.

- (5) Where an order under section 54(7) of the Act has been made or an exemption under section 172(3) of the Act of 2000 has been granted in respect of development comprising or for the purposes of a waste recovery or waste disposal activity, has applied other requirements in relation to the risk of environmental pollution from the activity, an application in respect of the said activity shall comply with the said requirements applied by the Minister.
- (6) Notwithstanding the requirements of sub-articles (1) and (2), all or part of 3 copies of the environmental impact statement may, with the agreement of the Agency, be submitted in a computer or other non-legible format specified by the Agency.

Procedure on receipt of an application.

14. (1) On receipt of an application, the Agency shall -
 - (a) stamp the application with the date of receipt, and
 - (b) examine whether the requirements of articles 12 and sub-articles 13(1) and (2) have been complied with.
- (2) (a) Where the Agency considers that the requirements of articles 12 and sub-articles 13(1) and (2) have been complied with in respect of an application, it shall send to the applicant an acknowledgement of receipt of the application.
- (b) Where the Agency considers that any of the requirements of articles 12 and sub-articles 13(1) and (2) have not been complied with in respect of an application, it shall, as it considers appropriate having regard to the extent of the failure to comply with the said requirements, by notice in writing -
 - (i) inform the applicant of such failure of compliance and that the application cannot be considered by the Agency, or
 - (ii) require the applicant, within such period as may be specified by the Agency, to take such steps or furnish such submissions, plans, documents or other information and particulars, as the Agency considers are necessary for compliance with the said requirements.

PART IV

CONSIDERATION OF APPLICATIONS AND REVIEWS

Submissions to the Agency regarding applications.

15. For the purpose of section 40(2)(b) of the Act, a person may make a written submission to the Agency in relation to -

- (i) an application, and
- (ii) such plans, documents and other information and particulars, including an environmental impact statement, as are submitted by the applicant in accordance with articles 12, 13, 14 and 16,

and the Agency shall not give notice of a proposed decision under section 42(2) of the Act before the expiry of a period of one month following the date of a relevant –

- (a) acknowledgement in accordance with article 14(2)(a), or
- (b) notice in accordance with article 16(2)(a), or
- (c) acknowledgement in accordance with article 16(4),

whichever such date is the later.

Further information.

16. (1) (a) Where the Agency receives an application, it may, by notice in writing, require the applicant within one month or such other period as may be specified by the Agency-
- (i) to furnish such further information or particulars relating to the application as it considers necessary to enable it make a decision in respect of the application, or
 - (ii) to produce such evidence as it may reasonably require in order to verify any information or particulars furnished by the applicant in, or in relation to, the application.
- (b) If the applicant fails to comply with a requirement of a notice issued under paragraphs (a)(i) or (a)(ii), the Agency may, as it is considers appropriate, having regard to the extent of the failure to comply with such notice, inform the applicant of such failure and that the application cannot be considered by the Agency.
- (2) Where further information in respect of an application to which sub-articles 13(1) and (2) relate is received by the Agency pursuant to a requirement under sub-article (1) and the Agency considers that such information contains significant additional data in relation to the effects on the environment of development which comprises or is for the purposes of the waste recovery or disposal activity to which the application relates, the Agency shall -
- (a) require the applicant to publish in a newspaper circulating in the area in which the said activity is or would be carried on a notice, in such form as may be specified by the Agency, stating that further information in relation to the effects on the environment of the proposed development has been furnished to the Agency, and

- (b) send a copy of such information to each authority, person or body to which it gives or has given a notice under article 18(1).
- (3) (a) Where the Agency has given a notice under section 42(1)(b) of the Act to a licensee, it may, by further notice in writing, require the licensee –
 - (i) to submit such further information or particulars as it considers necessary to enable it to complete the review, or
 - (ii) to produce such evidence as it may reasonably require to verify any information or particulars furnished by the licensee in response to such notice or further notice.
 - (b) If the applicant fails to comply with a requirement of a notice issued under paragraphs (a)(i) or (a)(ii), the Agency may, as it is considers appropriate, having regard to the extent of the failure to comply with such notice, inform the applicant of such failure and that the application cannot be considered by the Agency.
- (4) Where the Agency considers that the requirements of a notice given under sub-articles (1) or (3) have been complied with, it shall send to the licensee an acknowledgement to that effect.
 - (5) Where there is a failure or refusal to comply with a requirement under the foregoing sub-articles within one month of the date of notice of such requirement, the Agency may, if it thinks fit, proceed with its consideration of the application or the review, as the case may be, and to give a notification under section 42(2) of the Act in the absence of the information, particulars or evidence specified in the requirement.

Impact on the environment in another Member State.

- 17. (1) Where the Agency receives an application, other than an application in respect of which a notice in accordance with article 14(2)(b)(i) has been or will be given, and it appears to the Agency that the activity, the subject of the application -
 - (a) would or is likely to have a significant impact on the environment in another Member State, or
 - (b) would or may give rise to the direct or indirect discharge into transfrontier groundwater of substances specified in the Annex to Council Directive 80/68/EEC¹²,

the Agency shall, as soon as may be after receipt of the said application, notify the appropriate competent authority in the Member State concerned.
- (2) The Agency shall notify the Minister of any notice given in accordance with sub-article (1) or any request to which sub-article (4) relates.

¹² Council Directive 80/68/EEC of 17 December, 1979 on the protection of groundwater against pollution caused by certain dangerous substances.

- (3) A notice given in accordance with sub-article (1) shall be accompanied by a copy of the relevant application and of all accompanying documents and particulars, including any environmental impact statement received by the Agency in accordance with the provisions of Part III, and shall as a minimum indicate -
- (a) the reference number given to the application or relevant licence in the register,
 - (b) the name and address of the applicant or licensee,
 - (c) the location or postal address (including, where appropriate, the name of the relevant townland or townlands) and the National Grid reference of the relevant facility or premises,
 - (d) the class or classes of activity concerned in accordance with the Third and Fourth Schedule to the Act,
 - (e) the date of receipt of the application,
 - (f) where relevant, the name of the planning authority to which a copy of the environmental impact statement has been, or will be, submitted,
 - (g) that the notification is for the purpose of giving effect to Article 17 of Council Directive 80/68/EEC¹³, Article 7 of Council Directive 85/337/EEC¹⁴ and/or Article 17 of Council Directive 96/61/EC¹⁵, as the case may be,
 - (h) the nature of the relevant discharges to transfrontier groundwater or other impacts on the environment of the Member State concerned, as the case may be, and
 - (i) that the competent authority concerned may, within a period of four weeks from the date of such notice, make a written submission to the Agency or request consultations with the Agency in relation to the proposed activity.
- (4) Upon request by the competent authority in a Member State, the environment of which would or is likely to be significantly affected by an activity which is the subject of an application under this Part, the Agency shall, as soon as may be, forward to the said authority the material specified in sub-article (3).
- (5) (a) The Agency, before it gives notice of a proposed decision under section 42(2) of the Act in respect of an application to which sub-article (1) applies -

¹³ Council Directive 80/68/EEC of 17 December, 1979 on the protection of groundwater against pollution caused by certain dangerous substances.

¹⁴ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment.

¹⁵ Council Directive 96/61/EC of 24 September, 1996 concerning integrated pollution prevention and control.

- (i) shall comply with any reasonable request for consultations in relation to the said application which is received from a relevant competent authority within the period specified in sub-article (3)(i), and
 - (ii) shall have regard to any written submission from the competent authority concerned arising directly from such consultations.
- (b) The Commission of the European Communities may participate in any consultations arising under paragraph (a).

Notice to certain public authorities and bodies.

18. (1) Where the Agency receives an application, other than an application in respect of which a notice in accordance with article 14(2)(b)(i) has been or will be given, or has given a notice of intention to review a waste licence under section 42(1)(b) of the Act, it shall notify -
- (a) the Minister for the Environment, Heritage and Local Government,
 - (b) the Minister for Communications, Marine and Natural Resources,
 - (c) the Central Fisheries Board,
 - (d) An Taisce - The National Trust for Ireland,
 - (e) any local authority in whose functional area the activity is or will be situate, where the said authority is not the applicant,
 - (f) in the case of a discharge to which section 99E of the Act of 1992 relates, the relevant sanitary authority, where the said authority is not the applicant,
 - (g) any relevant health board,
 - (h) the National Authority for Occupational Safety and Health,
 - (i) Fáilte Ireland,
 - (j) Teagasc,
 - (k) in the case of an activity any part of which is situate within the functional area of the Shannon Free Airport Development Company Limited, that company, and
 - (l) such other public authorities, persons or bodies, if any, as the Agency considers necessary having regard to the nature and extent of the activity to which the application or review refers.
- (2) A notice given in accordance with sub-article (1) shall as a minimum indicate -
- (a) the reference number given to the application or relevant licence in the register,
 - (b) the name and address of the applicant or licensee, as the case may be,
 - (c) the location or postal address (including, where appropriate, the name of the relevant townland or townlands) and the National Grid reference of each facility or premises to which the application relates, and

- (d) the class or classes of activity concerned in accordance with the Third and Fourth Schedule of the Act.
- (3) Where an environmental impact statement is received by the Agency in accordance with the provisions of Part III, the Agency shall send a copy of the statement to each authority, person or body to which it gives or has given a notice under sub-article (1) and indicate, where relevant, the name of the planning authority to which the environmental impact statement has been, or will be, submitted.
- (4) Without prejudice to sub-articles 16(2), 18(1) and 18(3), the Agency shall not be obliged to notify any person of the receipt by the Agency of plans, documents, or other information or particulars in accordance with articles 12, 13, 14 or 16.

Availability and inspection of documents.

- 19. (1) The Agency shall make the documents or other items specified in sub-article (2) available for public inspection during office hours at the headquarters of the Agency from as soon as may be after receipt of the documents or other items or the giving of notice as the case may be.
- (2) The following are specified for the purposes of sub-article (1) -
 - (a) an application,
 - (b) a notice given to a licensee under section 42(1)(b) of the Act,
 - (c) such other notices as are given by the Agency under Part V of the Act or under these Regulations in respect of an application or review, and
 - (d) such submissions, plans, documents and other information and particulars, including an environmental impact statement, and such evidence and objections as are received or obtained by the Agency from an applicant, licensee or any other person in accordance with Part V of the Act or in accordance with these Regulations in respect of an application or review.
- (3) In the case of an application by a local authority or the review by the Agency of a waste licence granted to a local authority, the said authority shall make the documents or other items specified in sub-article (4) available for public inspection during office hours at the principal office of the authority, from as soon as may be after they have been submitted to or received from the Agency, as the case may be, for a period of not less than 2 months after the date on which the Agency has given its decision on the relevant application or review, as the case may be.

- (4) The following are specified for the purposes of sub-article (3) -
- (a) the application,
 - (b) a notice under section 42(1)(b) of the Act in respect of a licence which has been granted to the local authority,
 - (c) such other notices as are received from the Agency under Part V of the Act or under these Regulations in respect of the application or review, and
 - (d) such submissions, plans, documents and other information and particulars, including an environmental impact statement, and such evidence and objections as are submitted by the local authority to the Agency in accordance with Part V of the Act or in accordance with these Regulations.
- (5) For the purposes of sub-articles (1) and (3), a copy of the documents specified in those sub-articles, or any extract therefrom, shall be made available on request during office hours at the headquarters of the Agency or the principal office of the local authority, as the case may be, for purchase at such charge (if any), not exceeding the reasonable cost of making such copies, as the Agency or local authority may determine.
- (6) For the purposes of sub-articles (1) and (3), all or part of the documents or other items specified in sub-articles (2) and (4), and any report to which sub-article (8) refers, may be made available for public inspection in a computer format.
- (7) Notwithstanding sub-article (5), a plan or other drawing or photograph may be made available for inspection only.
- (8) A copy of any written report prepared by or for the Agency for the purpose of making a decision in respect of an application or in consequence of a review of a waste licence, including any written report made under section 44(3) of the Act, or any extract therefrom, shall, following the decision to grant or refuse the said waste licence in accordance with section 40(1) of the Act, be made available on request during office hours at the headquarters of the Agency, for inspection, or for purchase at such charge (if any), not exceeding the reasonable cost of making such copies, as the Agency may determine.
- (9) An applicant or licensee, as the case may be, shall comply with any request from the Agency for such further number of copies as the Agency may specify of -
- (a) the relevant application and all accompanying documents and particulars, including an environmental impact statement, or
 - (b) such documents or particulars as may have been provided to the Agency by the licensee in relation to a review to which section 42(1)(b) of the Act refers.

Defrayal or contribution towards costs of investigations.

20. (1) The Agency may, by notice in writing, require an applicant or licensee, as the case may be, to defray or contribute towards the cost of any investigations carried out or caused to be carried out by the Agency so as to enable it properly to decide on an application or the review of a waste licence which was proposed by the Agency
- (2) The amount of any payment required under sub-article (1), taken together with such fee as may be payable under Part VII in respect of the relevant application or review, shall not exceed the costs incurred by the Agency in deciding on the said application or review.
- (3) An applicant or licensee shall comply with any requirement of a notice under sub-article (1) within such period, being a period of not less than three weeks, as may be specified in the said notice.

Withdrawal or abandonment of an application or submission.

21. (1) An application (other than an application in respect of a waste recovery of disposal activity carried on or after the date prescribed for the purposes of section 39(1) of the Act in relation to the said activity), or a submission referred to in article 15 may be withdrawn at any time before the making of the decision of the Agency on the application.
- (2) Where the Agency is of the opinion that an application or submission has been abandoned, it may give to the applicant or the person making the submission a notice stating that fact and requiring that person, within a period specified in the notice (being a period of not less than fourteen or not more than twenty-eight days beginning on the date of the giving of the notice), to make to the Agency a submission in writing as to why the application or submission should not be regarded as having been withdrawn.
- (3) Where a notice has been given under sub-article (2), the Agency may, at any time after the expiration of the period specified in the notice, and after considering the submission (if any) made to the Agency pursuant to the notice, declare that the application or submission to which the notice relates shall be regarded as having been withdrawn.
- (4) Where pursuant to this article the Agency declares that an application is to be regarded as having been withdrawn, any submission or objection in relation to the application shall not be further considered by the Agency.

Notification of proposed decision on applications.

22. (1) The following persons are hereby prescribed for the purpose of section 42(2)(d) of the Act -

- (a) in the case of an application in respect of which notice has been given under article 17, the relevant competent authority and the Minister,
 - (b) in the case of an application or review in respect of which notice has been given under article 18(1), each public authority, person or body so notified.
- (2) Every notification given under section 42(2) of the Act shall, in addition to the matters specified in that sub-section, specify -
- (a) the reference number given to the application or the licence in the register,
 - (b) the activity to which the proposed decision relates,
 - (c) the day of the giving of the notification,
 - (d) that an objection against the proposed decision may be made to the Agency in accordance with section 42 of the Act,
 - (e) that where no objection is made, or where an objection or objections is or are made and the said objection or objections is or are withdrawn, the decision of the Agency shall be in accordance with the proposed decision and shall be issued as soon as may be after the expiration of the appropriate period.

PART V

OBJECTIONS AND ORAL HEARINGS

Circulation of objections.

23. (1) The Agency shall, as soon as may be after receipt of an objection -
- (a) acknowledge such receipt, and
 - (b) give a copy thereof to any other party (if any such) to the objection.
- (2) Any other party (if any such) to the objection may make a submission in writing to the Agency in relation to the objection within a period of one month beginning on the day on which a copy of the objection is sent to that party by the Agency.
- (3) Any submission received by the Agency under sub-article (2) after the expiration of the period specified in that sub-article shall not be considered by the Agency.

- (4) Where no submission is received from a party to an objection within the period specified in sub-article (2), the Agency may without further notice to that party consider the objection.

Power of Agency to request a further submission by an objector.

24. Where the Agency is of the opinion that, in the particular circumstances of an objection, it is appropriate in the interests of justice to enable the objector to make a further submission in relation to any matter which has arisen in relation to the objection, the Agency may, at its discretion and notwithstanding section 42(7) of the Act, give a notice under this article -
- (a) requesting that objector, within a period specified in the notice (not being less than fourteen or more than twenty-eight days beginning on the date of the giving of the notice) to make to the Agency a submission in writing in relation to the matter in question, and
 - (b) stating that, if a submission in writing is not received before the expiration of the period specified in the notice, the Agency will, after the expiration of that period and without further notice to the objector, proceed with its consideration of the objection and make a decision in respect of the application or in consequence of the review in question, as the case may be.

Power of Agency to request submission by an objector of documents, particulars or information.

25. Where the Agency is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling it to consider an objection, the Agency may give to any party to the objection a notice under this article -
- (a) requiring that party, within a period specified in the notice (being a period of not less than fourteen days beginning on the date of the giving of the notice) to submit to the Agency such document, particulars or other information as may be specified in the notice, and
 - (b) stating that, in default of compliance with the requirements of the notice, the Agency will, after the expiration of the period so specified and without further notice to the party, make a decision in respect of the application or in consequence of the review in question, as the case may be.

Withdrawal or abandonment of an objection

26. (1) Where the Agency is of the opinion that an objection has been abandoned, it may give to the party who made the objection a notice stating that fact and requiring that party, within a period specified in the notice (being a period of not less than fourteen or more than twenty-eight days beginning on the date of

the giving of the notice) to make to the Agency a submission in writing as to why the objection should not be regarded as having been withdrawn.

- (2) Where a notice has been given under sub-article (1), the Agency may, at any time after the expiration of the period specified in the notice, and after considering the submission (if any) made to the Agency pursuant to the notice, declare that the objection to which the notice relates shall be regarded as having been withdrawn.

Notification of oral hearing.

27. (1) Any objector in relation to a proposed decision of the Agency, other than a person who requested an oral hearing, shall be a prescribed person for the purpose of section 42(11)(a)(iv) of the Act.
- (2) Where the Agency decides to hold an oral hearing of an objection, it shall give, for the purpose of section 42(11) of the Act, not less than seven days notice of the time and place of the opening of the oral hearing or such shorter notice as may be accepted by all persons required to be notified in accordance with that section.
- (3) The Agency may, at any time before the opening of an oral hearing, alter the time or place of the opening of the hearing and, in the event of such alteration, the Agency shall give the persons notified in accordance with section 42(11) of the Act not less than seven days notice of the new time and place or such shorter notice as may be accepted by all such persons.
- (4) A request for an oral hearing may be withdrawn at any time.

Procedure at oral hearing.

28. (1) It is hereby prescribed that a person or persons appointed by the Agency to conduct an oral hearing shall, by virtue of such appointment, be an authorised person for the purposes of the Act.
- (2) A person or persons appointed to conduct an oral hearing shall -
 - (a) permit any party to the objection, the local authority in whose functional area the relevant activity is or will be carried on, or such employee of the Agency as the Agency may decide, to appear in person or to be represented by another person, and
 - (b) decide the order of appearance of persons to be heard.
- (3) Where the Agency has given notice in accordance with article 32(2) of its intention to take into account matters other than those raised by the parties to the objection, the parties shall be permitted, if present, to make submissions in relation to the said matters to the person or persons conducting an oral hearing.

Power to require attendance at oral hearings.

29. (1) Subject to sub-article (2), the person or persons appointed to conduct an oral hearing may, by giving notice in that behalf in writing to any party to the objection, such employee of the Agency as the Agency may decide, or the local authority in whose functional area the relevant activity is or will be carried on, require that party, employee or authority to attend at such time and place as is specified in the notice and to produce any documents, particulars, or other information in his, her or its possession, custody or control, to which the notice relates.
- (2) The following provisions shall have effect for the purposes of sub-article (1) -
- (a) it shall not be necessary for a person to attend in compliance with a notice at a place more than ten miles from the person's ordinary place of residence unless such sum as will cover the reasonable and necessary expenses of the attendance has been paid or tendered to that person,
 - (b) the Agency shall pay or tender to any person whose attendance is required such sum as the Agency, following consultation with the person or persons appointed to conduct the oral hearing, considers will cover the reasonable and necessary expenses of the attendance,
 - (c) any person who in compliance with a notice has attended at any place shall, save in so far as the reasonable and necessary expenses of the attendance have already been paid to that person, be paid those expenses by the Agency, and those expenses, save as aforesaid, shall, in default of being so paid, be recoverable as a simple contract debt in any court of competent jurisdiction.
- (3) A person to whom a notice under sub-article (1) has been given shall not refuse or wilfully neglect to attend in accordance with the notice or shall not wilfully alter, suppress, conceal or destroy any documents, particulars or other information to which the notice relates or, having so attended, shall not refuse or wilfully fail to produce any documents, particulars or other information to which the notice relates.
- (4) A person or persons appointed to conduct an oral hearing may require an officer of a local authority, sanitary authority or planning authority concerned to provide any information which that person reasonably requires for the purpose of the hearing, and it shall be the duty of the officer concerned to comply with the requirement.

Adjournment or re-opening of an oral hearing.

30. (1) Subject to sub-articles (2) and (3), the person or persons appointed to conduct an oral hearing may-
- (a) adjourn or resume the oral hearing,

- (b) having obtained the consent of the Agency, re-open the hearing, or
 - (c) notwithstanding that any party to the objection has failed to attend a hearing, proceed with the hearing.
- (2) Notice of the time and place of the resumption of an oral hearing that has been adjourned indefinitely, or the re-opening of an oral hearing, shall be given by the Agency to the persons first notified in accordance with section 42(11) of the Act not less than seven days before the said time or such shorter period as may be accepted by all such persons.
- (3) Unless the Agency considers it expedient to do so and so directs, an oral hearing shall not be re-opened after the report thereon has been made to the Agency.

Replacement of person or persons appointed to hold an oral hearing.

31. If, for any reason, a person appointed, either solely or jointly with another person or persons, to conduct an oral hearing is unable or fails to conduct or complete the conduct of, an oral hearing or, for any reason, is unable or fails to furnish a written report on an oral hearing to the Agency, the Agency may appoint another person to conduct the oral hearing or to conduct a new oral hearing.

Matters which may be taken into account by the Agency.

32. (1) The Agency in considering an objection may take into account matters other than those raised by a party to the objection.
- (2) The Agency shall give notice in writing to each party to the objection of the matters that it proposes to take into account under sub-article (1) and shall indicate in that notice -
- (a) in a case where the Agency proposes to hold an oral hearing of the objection, or where an oral hearing of the objection has been concluded and is re-opened in accordance with article 30, that submissions in relation to the said matters may be made to the person or persons appointed to conduct the hearing, or
 - (b) in a case where the Agency does not propose to hold an oral hearing of the objection, or where an oral hearing of the objection has been concluded and the Agency does not propose to re-open the hearing, that submissions in relation to the said matters may be made to the Agency in writing within a period specified in the notice (being a period of not less than fourteen or more than twenty-eight days beginning on the date of the giving of the notice).
- (3) Submissions as aforesaid that are received by the Agency after the expiration of the period referred to in sub-article (2)(b) shall not be considered by the Agency.

- (4) Without prejudice to article 24, where a party to an objection makes a submission to the Agency in accordance with sub-article (2)(b), that party shall not be entitled to elaborate in writing upon that submission or to make further submissions in writing in relation to the matters referred to in sub-article (1) and any such elaboration or submissions that are received by the Agency shall not be considered by it.

Period for consideration of an objection.

33. (1) Where it appears to the Agency that it would not be possible or appropriate, because of the particular circumstances of an objection, to carry out the procedures for the consideration of an objection, whether or not an oral hearing is held, within four months beginning on the day after the expiration of the appropriate period (as defined in section 42(12) of the Act), the Agency shall give notice in writing to each party to the objection of the reasons why it would not be possible or appropriate, as the case may be, to carry out such procedures and shall specify the date before which the Agency intends to carry out such procedures.
- (2) Where a notice has been given under sub-article (1), the Agency shall take all such steps as are open to it to ensure that the procedures are carried out before the date specified in the notice.

Notice of Agency's decision on an application.

34. (1) The Agency shall notify each person specified in sections 42(2) and 42(11) of the Act and the public authorities, persons or bodies notified under article 18 of its decision on an application for a waste licence or the review of a waste licence.
- (2) The Agency shall notify each person specified in sections 42(2) and 42(11) of the Act of an amendment of a waste licence or revised waste licence pursuant to section 42B(1) of the Act.
- (3) A notification under sub-articles (1) and (2) shall be accompanied by a copy of the decision referred to.

PART VI

GRANT AND REVIEW OF A WASTE LICENCE

Conditions necessary to give effect to certain provisions of Community acts.

35. (1) The Agency shall attach to any waste licence that may be granted by it such conditions as are, in the opinion of the Agency, necessary to give effect to the provisions, specified in column (1) of the Third Schedule, of the Community acts specified correspondingly in column (2) of the Schedule, insofar as such provisions are relevant to the waste recovery or disposal activity concerned.

- (2) For the avoidance of doubt, and having regard to the objectives specified in Article 1 of the Landfill Directive, the Agency may attach to any relevant waste licence that is granted by it conditions relating to any of the matters specified in articles 49 and 50, such conditions to have effect from a date or dates earlier than such relevant dates as are specified in those articles.
- (3) Without prejudice to the provisions of section 40(4) of the Act, the Agency shall not grant a waste licence in respect of the disposal of waste at a new landfill facility unless it is satisfied that the carrying on of that activity at the facility concerned complies or will comply with all relevant requirements for the time being specified in the Landfill Directive.

Conditions regarding gas control at a landfill facility.

36. In attaching conditions to a waste licence that may be granted by the Agency in respect of the disposal of waste at a landfill facility, the Agency shall, as far as is practicable, require the installation of systems to facilitate the collection and recovery or flaring of landfill gas.

Conditions regarding the recovery or disposal of waste oil.

37. For the purpose of the attachment by the Agency of conditions to a waste licence that may be granted by it in respect of the recovery or disposal of waste oils -
 - (a) Article 11 of Council Directive 75/439/EEC¹⁶ shall apply in respect of an activity disposing of more than 500 litres of waste oil per annum, and
 - (b) the Agency shall take such steps as are necessary for the purposes of compliance with Article 13.2 of the said Council Directive.

Operation of mobile plant

38. (1) The Agency may attach to a waste licence that may be granted by it conditions authorising the operation of mobile plant at more than one facility.
- (2) The Agency shall not grant a revised waste licence providing for the cessation of use of mobile plant at a facility or facilities unless it is satisfied that the condition of the relevant facility or facilities is not causing or likely to cause environmental pollution.
- (3) Where the Agency grants a waste licence in respect of the carrying on of waste recovery or disposal activities at a facility, being a facility to which a waste licence in relation to the operation of mobile plant already applies, any conditions of the waste licence first granted which relate to the operation of the said mobile plant at the facility in question shall cease to have effect.

¹⁶ Council Directive 75/439/EEC on the disposal of waste oils, as amended by Council Directive 87/101/EEC.

Review of waste licence authorising discharges to groundwater.

39. The Agency shall carry out, at least once every four years, a review of a waste licence which authorises the direct or indirect discharge of substances for the time being specified in the Annex to Council Directive 80/68/EEC¹⁷.

PART VII

LICENSING FEES

Fee for application for a waste licence.

40. (1) A fee shall be paid to the Agency by an applicant in respect of an application for a waste licence.
- (2) Subject to sub-articles (3) and (4), the fee payable under sub-article (1) shall be the amount indicated in column (2) of Part I of the Second Schedule opposite the relevant class of waste activity in column (1) of the said Part of the Schedule.
- (3) Where a class of activity can be identified by reference to more than one class in column (1) of Part I of the Second Schedule, the fee payable under sub-article (1) shall be the highest of the fees specified in column (2) of Part I of the Second Schedule opposite the class of activity so identified in column (1) of the Schedule.
- (4) (a) The fee payable in respect of an application, being an application relating to the proposed operation of mobile plant at more than one facility, shall exceed the amount indicated in column (2) of Part I of the Second Schedule opposite the relevant class of waste activity in column (1) of the said Part of the Schedule, by a sum comprising 75% of the said amount in the case of a second and each further facility concerned.
- (b) Notwithstanding paragraph (a), where the cost incurred by the Agency in determining an application in respect of the second or each further facility is less than 75% of the said amount, a lower fee may be determined by the Agency.

Fee for application for review or surrender of a waste licence

41. (1) A fee shall be paid to the Agency in respect of an application for a review of a waste licence, or an application under section 48(2) of the Act for the surrender of a waste licence.
- (2) Subject to sub-articles (3) and (4), the fee payable under sub-article (1) shall be the amount indicated in column (3) of Part I of the Second Schedule

¹⁷ Council Directive 80/68/EEC of 17 December, 1979 on the protection of groundwater against pollution caused by certain dangerous substances.

opposite the relevant class of waste activity in column (1) of the said Part of the Schedule.

- (3) Where a class of activity is identified more than once in column (1) of Part I of the Second Schedule, the fee payable under sub-article (1) shall be the highest of the fees specified in column (3) of Part I of the Second Schedule opposite the class of activity so identified in column (1) of the Schedule.
- (4)
 - (a) The fee payable in respect of an application, being an application relating to the proposed operation of mobile plant at a facility or facilities other than that or those to which the said licence relates, shall exceed the amount indicated in column (3) of Part I of the Second Schedule opposite the relevant class of waste activity in column (1) of the said Part of the Schedule, by a sum comprising 75% of the said amount in the case of a second and each further facility concerned.
 - (b) Notwithstanding paragraph (a), where the cost incurred by the Agency in determining an application in respect of the second or each further facility is less than 75% of the said amount, a lower fee may be determined by the Agency.

Fee for the making of objections.

42. (1) A fee shall be paid to the Agency in respect of the making of an objection.
- (2) Subject to sub-article (3), the fee payable under sub-article (1) shall be the amount indicated in column (3) of Part II of the Second Schedule opposite the appropriate mention of objection in column (2) of the said Part of the Schedule.
- (3) Where an objection is made to the Agency by-
 - (a) a local authority,
 - (b) a planning authority,
 - (c) a sanitary authority,
 - (d) the Central Fisheries Board,
 - (e) An Taisce - The National Trust for Ireland,
 - (f) Fáilte Ireland,
 - (g) in the case of an activity any part of which is situate within the functional area of the Shannon Free Airport Development Company Limited, that company,

a reduced fee shall be payable in respect of the said objection, in accordance with sub-article (2).

Fee for application for transfer of a waste licence.

43. (1) A fee shall be paid to the Agency in respect of an application under section 47(2) of the Act for the transfer of a waste licence.

- (2) The fee payable under sub-article (1) shall be the amount indicated in column (3) of Part II of the Second Schedule opposite the appropriate mention of application in column (2) of the said Part of the Schedule.

Fee for request for an oral hearing.

44. (1) A fee shall be paid to the Agency in respect of a request for an oral hearing of an objection.
- (2) The fee payable under sub-article (1) shall be the amount indicated in column (3) of Part II of the Second Schedule opposite the mention of a request for an oral hearing in column (2) of the said Part of the Schedule.

Discretionary power to refund or waive fee in certain circumstances.

45. (1) Notwithstanding any other provision of these Regulations, the Agency shall have an absolute discretion to refund or waive up to half of any fee payable in respect of a particular application where it is satisfied that the payment in full of the fee would not be just and reasonable having regard to the relevant circumstances of the activity.
- (2) A decision under sub-article (1) shall contain a statement specifying the reasons for the decision.

PART VIII

MISCELLANEOUS

Prescribed offences for the purpose of section 40(7) of the Act.

46. For the purpose of section 40(7) of the Act -
- (a) a contravention of section 32(1), 32(3) or 39(1) of the Act, or
- (b) an offence under section 14(6), 15(3), 34(1), 36(3), 45(4), 57(4) or 58(7) of the Act
- shall be a prescribed offence.

Criteria for the determination by the Agency of a relevant person.

47. In determining whether a person shall be a relevant person for the purpose of section 40(7) of the Act, the Agency shall, where an applicant is a body corporate, have regard to whether the said person is a director, manager, secretary or other similar officer of that body corporate or is otherwise in or likely to be in a position to direct or control the carrying on of the activity to which the relevant application relates.

Classification of landfill facilities.

48. (1) The Agency shall classify each landfill facility into one of the following classes -

- (i) a landfill for hazardous waste,
- (ii) a landfill for non-hazardous waste, or
- (iii) a landfill for inert waste,

and shall specify the class of landfill in each relevant waste licence or integrated pollution prevention and control licence that is granted.

(2) It is hereby prescribed that the register maintained by the Agency under section 19 of the Act shall include entries specifying the classification, for the purposes of sub-article (1), of each landfill facility in respect of which a waste licence is or has been granted.

Wastes prohibited from landfill

49. (1) (a) Subject to paragraph (b), the wastes specified in sub-article (2) shall not be accepted or disposed of in a landfill facility.

(b) In the case of a landfill facility other than a new landfill facility or a landfill facility for hazardous waste, the requirement of paragraph (a) shall apply no later than 16 July 2009.

(2) The following wastes are specified for the purposes of sub-article (1) –

- (a) liquid waste,
- (b) waste which, in the conditions of landfill, is explosive, corrosive, oxidising, highly flammable or flammable as defined in Annex III of Council Directive 91/689/EEC¹⁸,
- (c) infectious healthcare waste, assessed as likely to cause disease in humans or animals, arising from medical or veterinary establishments, and waste specified under category 14 of Annex 1.A of Council Directive 91/689/EEC,
- (d) any other waste which does not satisfy such waste acceptance criteria as shall, from time to time, be determined in accordance with Annex II of Council Directive 91/689/EEC.

(3) (a) Subject to paragraph (b), whole used tyres (other than tyres used as on-site engineering material) shall not be accepted or disposed of at a landfill facility.

(b) In the case of a landfill facility other than a new landfill facility or a landfill facility for hazardous waste, the requirements of paragraph (a) shall apply no later than 16 July 2009.

¹⁸ Council Directive 91/689/EEC of 12 December 1991 on hazardous waste, O.J. No. L 377/20, 31 December 1991

- (4) Shredded used tyres shall not be accepted or disposed of after –
 - (a) 16 July 2006, in a new landfill facility or a landfill facility for hazardous waste,
 - (b) 16 July 2009, in a landfill facility other than one referred to in paragraph (a).
- (5) (a) Subject to paragraph (b), waste that has not been subject to treatment (other than inert waste for which treatment is not technically feasible, or any other waste the treatment of which will not reduce its volume or the risk of environmental pollution) shall not be accepted or disposed of in a landfill facility.
- (b) In the case of a landfill facility other than a new landfill facility or a landfill facility for hazardous waste, the requirements of paragraph (a) shall apply no later than 16 July 2009.

Waste to be accepted in different classes of landfill.

- 50. (1) Only hazardous waste that fulfils relevant waste acceptance criteria may be accepted for disposal at a landfill for hazardous waste.
- (2) A landfill for non-hazardous waste may only be used for the disposal of –
 - (a) municipal waste,
 - (b) non-hazardous waste, other than municipal waste, that fulfils relevant waste acceptance criteria,
 - (c) stable, non-reactive hazardous waste (such as that which is solidified or vitrified) with leaching behaviour equivalent to that of non-hazardous waste referred to in paragraph (b), that fulfils relevant waste acceptance criteria, and
 - (d) such other wastes as may from time to time be specified in accordance with the provisions of Article 16 and Annex II of the Landfill Directive.
- (3) A landfill for inert waste may only be used for the disposal of inert waste that fulfils relevant waste acceptance criteria.
- (4) Where hazardous waste of the type referred to in paragraph (2)(c) is disposed of in a landfill for non-hazardous waste, it shall not be deposited in cells destined to be used for the disposal of biodegradable non-hazardous waste.
- (5) The dilution or mixture of waste solely in order to fulfil relevant waste acceptance criteria is prohibited.

- (6) For the purpose of this article, “relevant waste acceptance criteria” means –
- (a) such criteria as may be specified by the Agency, having regard to Articles 6 and 11 of the Landfill Directive, pending the determination referred to in paragraph (b), and
 - (b) such criteria as shall be determined in accordance with the provisions of Article 16 and Annex II of the Landfill Directive.
- (7) In the case of a landfill facility other than a new landfill facility or a landfill facility for hazardous waste, this article shall have effect no later than 16 July 2009.

Statements in relation to landfill charges.

51. (1) Where the operator of a landfill facility is required to furnish a statement under section 53A(5) of the Act, the Agency may, by notice in writing, require the operator concerned, within a period to be specified in the notice, to –
- (a) furnish such information or particulars relating to the landfill facility concerned as the Agency considers appropriate, and/or
 - (b) produce such evidence as it may reasonably require in order to verify any information or particulars furnished by the landfill operator in, or in relation to, the said statement.
- (2) The Agency, having considered a statement submitted to it (including, where relevant, any information, particulars or evidence furnished under sub-article (1)), may require a landfill operator to amend the said statement in such manner or for such purpose as may be specified by the Agency.

Existing landfill facilities.

52. (1) A landfill operator shall submit to the Agency a plan (hereafter referred to as a conditioning plan) in respect of the landfill facility concerned, in such form as may be specified by the Agency.
- (2) A conditioning plan shall include information and particulars regarding –
- (a) the extent to which the facility concerned, and its management and operation (or, where relevant, its restoration, remediation and aftercare) complies with the relevant requirements of the Landfill Directive,
 - (b) such financial provision as –
 - (i) is proposed to be made by the landfill operator, having regard to the provisions of articles (7)(i) and (8)(a)(iv) of the Landfill Directive, or

- (ii) has been made in respect of the facility concerned for the purposes of Section 53(1) of the Act or Section 83(6) of the Act of 1992,

as the case may be, and
 - (c) such further measures as the landfill operator considers will be necessary in order to ensure compliance with the requirements of the Landfill Directive.
- (3) Where a landfill operator is required to submit a conditioning plan under this article, the Agency may, by notice in writing under Section 18 of the Act, require the operator concerned, within a period to be specified in the notice, to -
 - (a) furnish such information or particulars relating to the landfill facility concerned as the Agency considers necessary to enable it make a determination under sub-article (4), and/or
 - (b) produce such evidence as it may reasonably require in order to verify any information or particulars furnished by the landfill operator in, or in relation to, the conditioning plan.
- (4) The Agency, having considered –
 - (a) a conditioning plan submitted to it (including, where relevant, any information, particulars or evidence furnished under sub-article (3)), or
 - (b) in the event of a failure to comply with sub-articles (1) and (3), such information as is otherwise available to the Agency in relation to the landfill facility concerned,

shall as soon as possible determine whether, as the case may be –
 - (i) there is a reasonable prospect that the said facility can be operated in compliance with the requirements of the Landfill Directive (other than paragraph 1 of Schedule 1 of that Directive) by a date not later than 16 July 2009, or
 - (ii) in the case of a landfill which has finally ceased to accept waste for disposal, the extent to which the requirements of Annex III of the Landfill Directive are complied with.
- (5) Where necessary, having made a determination under sub-article (4), the Agency may review the relevant waste licence or integrated pollution prevention and control licence, as the case may be, in order that the results specified in sub-article (6) are achieved.
- (6) The results referred to in sub-article (5) are that –
 - (a) where, in the view of the Agency, a landfill facility cannot be operated in compliance with the requirements of the Landfill Directive, the disposal of waste at that facility shall cease as soon as possible;

- (b) where, in the view of the Agency, a landfill facility may continue to operate, such further measures are undertaken as are considered by the Agency to be necessary (having regard to the relevant conditioning plan or otherwise) in order to ensure compliance with the relevant requirements of the Landfill Directive not later than 16 July 2009;
 - (c) where a landfill facility is closed, the requirements of Annex III of the Landfill Directive are complied with.
- (3) In this article, “landfill operator” means, as the case may be –
- (a) an applicant for or the holder of a waste licence in respect of the disposal of waste in a landfill facility (other than a new landfill facility), or
 - (b) the holder of an integrated pollution prevention and control licence to which a landfill facility (other than a new landfill facility) is subject.

Exemptions from the Landfill Directive and these Regulations.

53. (1) Articles 48 to 52 do not apply in respect of –
- (a) any landfill facility that ceased to accept waste for disposal prior to 16 July 2001,
 - (b) the spreading of sludges (including sewage sludges and sludges resulting from dredging operations) and similar matter on soil for the purposes of fertilisation or improvement,
 - (c) the use of inert waste for redevelopment, restoration or construction purposes in a landfill facility,
 - (d) the deposit of –
 - (i) non-hazardous dredging sludges alongside small waterways from which they have been dredged,
 - (ii) non-hazardous sludges in surface waters, including the bed and its sub-soil, and
 - (iii) unpolluted soil or non-hazardous inert waste resulting from prospecting for, and the extraction, treatment and storage of, mineral resources and the operation of quarries.
- (2) It is hereby declared that the activities specified in sub-articles 3.3 and 3.5 of the Landfill Directive shall be exempt from the relevant provisions of the Directive to the extent specified therein.

First Schedule

Regulations Revoked

Number	Title	Extent of Revocation
S.I. No. 185 of 2000	Waste Management (Licensing) Regulations 2000	The whole regulations, save for articles 3 and 4 and the First Schedule
S.I. No. 397 of 2001	Waste Management (Licensing)(Amendment) Regulations 2001	The whole regulations
S.I. No. 336 of 2002	Waste Management (Licensing)(Amendment) Regulations 2002	The whole regulations
S.I. No. 337 of 2002	European Communities (Amendment of Waste Management (Licensing) Regulations 2000) Regulations 2002	The whole regulations

Second Schedule

FEES

PART 1

Fees for applications, review and surrenders of waste licences

Waste Activity (1)	Amount of fee for an application for a waste licence (2)	Amount of fee for a review or surrender of a waste licence (3)
1.1 The disposal of waste at a landfill facility where the annual intake is likely to exceed 100,000 tonnes.	€35,000	€25,000
1.2 The disposal of waste at a landfill facility where the annual intake is likely to exceed 40,000 tonnes but be less than 100,000 tonnes.	€30,000	€22,500
1.3 The disposal of waste at a landfill facility where the annual intake is likely to exceed 20,000 tonnes but be less than 40,000 tonnes.	€25,000	€20,000
1.4 The disposal of waste at a landfill facility where the annual intake is likely to exceed 5,000 tonnes but be less than 20,000 tonnes.	€20,000	€5,000
1.5 The disposal of waste at a landfill facility where the annual intake is likely to exceed to be less than 5,000 tonnes.	€10,000	€6,000
2. The disposal of hazardous waste.	€30,000	€22,500
3.1 The disposal of waste (other than hazardous waste) at a facility (other than a landfill facility) where the annual intake is likely to exceed 100,000 tonnes.	€20,000	€15,000
3.2 The disposal of waste (other than hazardous waste) at a facility (other than a landfill facility) where the annual intake is likely to exceed 25,000 tonnes but be less than 100,000 tonnes.	€12,000	€10,000

3.3 The disposal of waste (other than hazardous waste) at a facility (other than a landfill facility) where the annual intake is less than 25,000 tonnes.	€10,000	€6,000
4. The recovery of waste.	€10,000	€6,000

PART II

Other fees payable to the Agency in relation to waste licences

(1)	(2)	(3) Amount of fee
Article 42	Objection by the applicant or licensee	€500
	Objection by an authority or body mentioned in article 41(3)	€100
	Objection by any other person	€200
Article 43	Application for transfer of a waste licence	€5,000
Article 44	Request for an oral hearing	€100

Third Schedule

Provisions of Community acts that are to be given effect in relevant waste licences granted by the Agency.

Relevant Provisions (1)	Community act (2)
Articles 4, 6, 7, 10, 11 and 12	Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils, as amended by Council Directive 87/101/EEC of 22 December 1986.
Articles 4, 5, 8, 9, 10 and 18	Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances.
Article 8	Council Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos.
Articles 2.2 to 2.4 and 4.3	Council Directive 91/689/EEC of 12 December 1991 on hazardous waste.
Articles 4(6), 8(2) and 9(1)	Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls.
Articles 3, 8, 9, 10 and 18.2	Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control.
Articles 6, 8, 9, 11, 12, 13 and 14, and Annexes I, II and III.	Council Directive 99/31/EC of 26 April 1999 on the landfill of waste.

Given under the Official Seal of the Minister for the Environment, Heritage and Local Government, this 22nd day of June, 2004.

L.S.

MARTIN CULLEN

Minister for the Environment, Heritage and Local Government

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

These Regulations provide for the continued operation of the system of licensing by the Environmental Protection Agency of waste recovery and disposal activities under Part V of the Waste Management Act, 1996. The Regulations set out procedures for the making of waste licence applications, reviews of licences and consideration by the Agency of objections, including the holding of oral hearings.

These Regulations also provide for the licensing of mobile plant used for the recovery and disposal of waste at more than one site.

The Waste Management (Licensing) Regulations 2000 (save for articles 3 and 4 and the First Schedule), Waste Management (Licensing)(Amendment) Regulations 2001, Waste Management (Licensing)(Amendment) Regulations 2002 and European Communities (Amendment of Waste Management (Licensing) Regulations 2000) Regulations 2002 are revoked.