

S.I. No. 86/2008 — Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008

S.I. No. 86 of 2008

WASTE MANAGEMENT (FACILITY PERMIT AND REGISTRATION) (AMENDMENT) REGULATIONS 2008

Notice of the making of this Statutory Instrument was published in

“Iris Oifigiúil” of 8th April, 2008.

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 7, 15, 18, 19, 32, 39 and 53E of the Waste Management Acts 1996 to 2007, hereby makes the following Regulations:—

1. These Regulations may be cited as the Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008.

2. The Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. 821 of 2007) are hereby amended by:—

(a) The substitution of the following article for article 2—

“2. These Regulations shall come into operation on 01 June 2008.”;

(b) The insertion in paragraph (a) of sub-article 6(3) after “from time to time,” of “or”;

(c) The insertion in sub-article 10(1) after “An application for a waste facility permit” of “or a certificate of registration, as the case may be,”;

(d) The substitution of the following sub-paragraph for sub-paragraph (ii) of paragraph 10(1)(l)—

“(ii) Part I or Part II, as the case may be, of the third schedule of these

Regulations, and in the case of two or more activities identify the principal activity.”;

(e) The substitution of the following sub-article for sub article 10(2)—

“(2) The information to be provided under paragraphs (dd) and (ee) of sub-article (1) shall

(a) in a case where the applicant is a body corporate, include such information in relation to the applicant and to—

(i) each director, manager, company secretary or other similar officer of that body corporate, and

(ii) each body corporate in relation to which a director, manager, company secretary or other similar officer of the applicant body corporate is, or was, at any time during the period of 10 years prior to the making of the application, a director, manager, company secretary or other similar officer.

(b) in a case where the applicant is a person or a partnership, include such information in relation to the applicant and each body corporate in which the person or any partner, as the case may be, is, or was, at any time during the period of 10 years prior to the making of the application, a director, manager, company secretary or other similar officer.”;

(f) The substitution of the following paragraph (a) for paragraph (a) of sub-article 11(5)—

“(a) an activity the subject of a waste facility permit which has been determined by the Agency to now require a waste licence in accordance with the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, shall remain valid if an application for a waste licence is made to the Agency within 180 working days of the date of notification in writing of a determination by the Agency, until such time as a decision is taken to grant or to refuse a waste licence under article 34 of the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, or the permit is reviewed under article 35, or”;

(g) The substitution of the following paragraph (b) for paragraph (b) of sub-article 11(5)—

“(b) an activity the subject of a certificate of registration which has been determined by the Agency to now require a waste licence in accordance with the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, shall remain valid if an application for a waste licence is made to the Agency within 180 working days of the date of notification in writing of a

determination by the Agency, until such time as a decision is taken to grant or to refuse a waste licence under article 34 of the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, or until the certificate of registration has been reviewed under article 38, or”;

(h) The substitution of the following paragraph (c) for paragraph (c) of sub-article 11(5)—

“(c) an activity the subject of a certificate of registration which has been determined by the Agency to now require a waste facility permit, shall remain valid if an application for a waste facility permit is made to the local authority within 60 working days of the date of notification in writing of a determination by the Agency, until such time as a decision is taken to grant or to refuse a waste facility permit under article 18 of these Regulations, or the certificate of registration has been reviewed under article 38, or”;

(i) The substitution of the following sub-article for sub-article 12(2)—

“(2) Within a period of 10 working days following receipt of an application for a waste facility permit, a local authority shall—

(i) decide whether the requirements of article 7, sub-articles 8(1), 8(2), 8(3) and article 10 have been complied with, and

(ii) comply with the relevant requirements of article 41.”;

(j) The substitution of the following sub-article for sub-article 12(8)—

“(8) The local authority shall not serve a notice under sub-article 7 any later than 5 working days after the making of its decision in accordance with sub-article (2).”;

(k) The substitution of the following sub-article for sub-article 12(11)—

“(11) Where a local authority considers, in accordance with sub-article (2), that the requirements of article 7, sub articles 8(1), 8(2), 8(3) and article 10 have been complied with in respect of an application, it shall, within 5 working days of making its decision,

(a) send to the applicant an acknowledgement of receipt of a valid application,

(b) notify the Agency that a valid application has been received,

(c) notify the Minister for Agriculture and Food, where the application is made

for a waste facility permit which is concerned with the composting of animal by-products within the meaning of Regulation (EC) No. 1774/2002, and such notice shall be accompanied by a copy of the said application,

(*d*) in the case of an application which is concerned with the development or improvement of land, where the—

(i) applicant states in article 10(1) that the facility is located in, on or adjacent to, or impinges upon a European site, or

(ii) local authority considers, in its reasonable opinion, that the facility has the potential to impinge upon a European site,

the local authority shall notify the Minister for the Environment, Heritage and Local Government that the application has been made and such notice shall be accompanied by a copy of the said application.”;

(*l*) The substitution of the following sub-article for sub-article 14(3)—

“(3) The documents and information specified at sub-article (2) shall be made available for public inspection during office hours at the principal office of the local authority from as soon as may be after making a decision under article 12 that the application is valid.”;

(*m*) The insertion after paragraph (*e*) of sub-article 18(4) of the following—

“A local authority may, if it considers it proper to do so in any particular case, regard a person as a fit and proper person for the purposes of this Part notwithstanding that that person or any other relevant person has been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987 .”;

(*n*) The substitution of the following paragraph for paragraph (*d*) of sub-article 22(*d*)—

“(*d*) an offence under article 9 of the Waste Management (Transfrontier Shipment of Waste) Regulations 2007¹ ,”;

(*o*) The substitution of the following paragraph for paragraph (*a*) of sub-article 24(1)—

“(*a*) by notice in writing, or in such a manner as may be specified by the Agency, inform the Agency in accordance with article 18(5), within 10 working days, of any

waste facility permit or certificate of registration granted by the authority, and”;

(p) The insertion after sub-article 24 (2) of the following—

“(3) A waste facility permit or certificate of registration holder shall furnish such information to the Agency in relation to waste collected, accepted, sorted, transferred, recycled, recovered, disposed of, brokered, or otherwise managed or treated within a specified period, in such form and at such frequency as may be specified by the Agency.”;

(q) The substitution of the following paragraph for paragraph (c) of sub-article 29(2)—

“(c) waste facility permit is revoked under article 36, or”;

(r) The substitution of the following paragraph for paragraph (d) of sub-article 29(2)—

“(d) waste facility permit is refused under articles 18 or 35.”;

(s) The substitution of the following sub-article for sub-article 29(5)—

“(5) On surrender of the waste facility permit notwithstanding the provisions of this article, the local authority may decide that any bond or financial security required under article 19(1)—

(a) shall be maintained in place for such period as the authority may require, or

(b) may be released to the permit holder.”;

(t) The substitution of the following sub-article for sub-article 31(1)—

“(1) A waste facility permit holder may, at any time, submit an application to a local authority to review a waste facility permit but in any event, in accordance with the provisions of article 35(8), no later than 60 working days before the date of expiry of an existing waste facility permit if it is to remain in force until such time as a reviewed waste facility permit is granted or refused under article 35 or, as the case may be, a new waste facility permit is granted under article 18, or the existing permit is revoked under article 36.”;

(u) The insertion after paragraph (d) of sub-article 35(6) of the following—

“A local authority may, if it considers it proper to do so in any particular case,

regard a person as a fit and proper person for the purposes of this Part notwithstanding that that person or any other relevant person has been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987 .”;

(v) The substitution of the following sub-article for sub-article 35(8)—

“(8) Where an application is not made for the review of an existing waste facility permit—

(a) at least 60 working days before the expiry date of the permit, or

(b) in the case of notification by the local authority under article 32 (3) that an application for a waste facility permit is required in accordance with articles 6, 7, 8 and 10, at least 60 working days from the date of issue of this notification,

the existing waste facility permit shall cease to have effect after the expiry date and the person shall not engage in waste-related activities at the facility until such time as a waste permit is granted in accordance with article 18 or, as the case may be, a reviewed waste facility permit is granted in accordance with article 35.”;

(w) The substitution of the following paragraph for paragraph (c) of sub-article 36(1)—

“(c) activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007, the Waste Management (Movement of Hazardous Waste) Regulations 1998, or the Waste Management (Transfrontier Shipment of Waste) Regulations 2007, or”;

(x) The substitution of the following sub-article for sub-article 37(7)—

“(7) Within a period of 10 working days following receipt of an application for a certificate of registration, a local authority or, as the case may be, the Agency shall

(a) decide whether the requirements of sub-article (5) have been complied with, and

(b) comply with the relevant requirements of article 41.”;

(y) The substitution of the following sub-article for sub-article 37(10)—

“(10) A local authority or, as the case may be, the Agency, shall decide on an application for a certificate of registration as expeditiously as possible and, in any event, grant, or refuse to grant, a certificate of registration within—

(a) 25 working days, or

(b) in the case of WEEE, the period specified in article 39(5)(f) of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 subject to any amendment that may be made to those regulations from time to time,

from the date of determination of a valid application form in accordance with this article.”;

(z) The insertion after paragraph (d) of sub-article 37(12) of the following—

“A local authority or, as the case may be, the Agency, may if it considers it proper to do so in any particular case, regard a person as a fit and proper person for the purposes of this Part notwithstanding that that person or any other relevant person has been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987 .”;

(aa) The substitution of the following paragraph for paragraph (c) of sub-article 38(7)—

“(c) the activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007, the Waste Management (Movement of Hazardous Waste) Regulations 1998, or the Waste Management (Transfrontier Shipment of Waste) Regulations 2007,”;

(bb) The substitution of the following paragraph for paragraph (a) of sub-article 41(1)—

“(a) in relation to each activity in respect of which a waste facility permit is granted, reviewed, revoked, transferred or surrendered, such relevant information as provided under the requirements of article 10(1),”.

(cc) The substitution of the following paragraph for paragraph (8) of the Fourth Schedule—

“(8) The registration holder shall take all necessary measures relating to prevention of unauthorised waste activities and the establishment of controls on entry to the facility, including the rejection of all waste arriving at the facility where the vehicle does not possess the requisite authorisation to permit the collection and

transportation of waste in accordance with Section 34 of the Act, the Waste Management (Collection Permit) Regulations, 2007 and Waste Management (Collection Permit) (Amendment) Regulations, 2008.”.

3. The Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. 821 of 2007) are hereby amended by the substitution for the Third Schedule thereto of the Schedule of these Regulations.

Article 6.

THIRD SCHEDULE

PART I CLASSES OF ACTIVITY SUBJECT TO WASTE FACILITY PERMIT APPLICATION TO A LOCAL AUTHORITY

The carrying on by a person (other than a local authority) at a facility (other than a facility located in whole or in part in an area which is not within the functional area of a local authority) of any of the following activities, provided that—

(a) the activity is not an activity which is carried on adjacent to, a facility at which a licensable activity is being carried on by the same legal entity, and

(b) In the cases of Class 5 and Class 6 the upper limits on the amount of waste, which may be accepted, shall relate to

(i) the total quantity of waste which has been received and is proposed to be accepted at the facility at any time, or

(ii) in the case of an activity which is carried on in, on or adjacent to, a facility at which a waste-related activity is being carried on which is the subject of a waste facility permit or certificate of registration, the total quantity of waste which has been received at both the facility itself and all such facilities at any time.

CLASS DESCRIPTION

No.

1. The reception and temporary storage, pending collection, other than by a local authority, where not otherwise regulated by a waste licence or certificate of registration, or exempted in accordance with the provisions of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 of—

(1) household hazardous waste (other than WEEE and mercury containing waste or used batteries and accumulators) at a civic amenity facility, recycling

centre or central collection point where annual intake shall not exceed—

(i) in the case of liquid waste, 100,000 litres,

(ii) in the case of non-liquid waste, 100 tonnes.

(2) WEEE at any premises

for the purpose of onward transport and submission to recovery at an authorised facility.

2. The Reception, storage (including temporary storage) and recovery of waste vehicles (other than end-of-life vehicles) having regard to the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006).
3. The reception, treatment and recovery of WEEE (including removal of all fluids and dismantling or disassembly or removal of WEEE substances, preparations and components prior to treatment) in accordance with the provisions of articles 20 and 21 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations (S.I. No. 340 of 2005). Annual intake shall not exceed 10,000 tonnes per annum.
4. The reception, storage and recovery of scrap metal, including scrap metal arising from end-of-life vehicles, waste vehicles (other than end-of-life vehicles) and WEEE where scrap metal from—

(1) end-of-life vehicles shall be subject to appropriate treatment and recovery in accordance with the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006) prior to acceptance at the scrap metal facility, and as appropriate,

(2) waste vehicles (other than end-of-life vehicles) shall be subject to appropriate treatment and recovery having regard to the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006) prior to acceptance at the scrap metal facility, and as

appropriate,

(3) WEEE shall be subject to appropriate treatment and recovery in accordance with the provisions of articles 20, 21 and 22 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) prior to acceptance at the scrap metal facility.

5. Recovery of excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste, through deposition for the purposes of the improvement or development of land, where the total quantity of waste recovered at the facility is less than 100,000 tonnes.
6. Recovery of inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone) through deposition for the purposes of the improvement or development of land, where the total quantity of waste recovered at the facility is less than 50,000 tonnes.
7. Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding land improvement or development) where—
 - (a) the annual intake shall not exceed 50,000 tonnes, and
 - (b) the maximum quantity of residual waste consigned from the facility for collection, onward transport and submission to disposal at an authorised facility shall not exceed 15% of the annual intake.
8. The reception, storage and biological treatment of biowaste at a facility where—
 - (a) the maximum amount of compost, biowaste and digestate held at the facility does not exceed 6,000 cubic metres at any time, and
 - (b) the annual intake shall not exceed 10,000 tonnes.

9. The reception, temporary storage and recovery of used batteries and accumulators where—
 - (a) from 26 September 2008, the treatment and recycling of used batteries and accumulators meets the requirements of article 12 of Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and
 - (b) the annual intake shall not exceed 1,000 tonnes.

10. The recovery of waste (not mentioned elsewhere in this part of the third schedule), other than hazardous waste or an activity specified in Category 5 of Annex I of Council Directive 96/61/EC, where—
 - (a) the annual intake does not exceed 50,000 tonnes, and
 - (b) the maximum quantity of residual waste consigned from the facility for onward transport and submission to disposal at an authorised facility shall not exceed 15% of the annual intake.

11. The reception, storage and transfer of waste (other than hazardous waste) for disposal at a facility (other than a landfill facility) where the annual intake does not exceed 7,500 tonnes.

12. The collection and storage (including the temporary storage) and the appropriate treatment and recovery of end-of-life vehicles in accordance with the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006).

Note: Where the waste-related activities being undertaken within a facility encompass a number of the classes as set out within Part I of the third schedule, the quantity of waste concerned shall be taken as meaning the total quantity of waste accepted at the facility taking account of inputs relating to all classes of activity and compared to the threshold of the principal class.

Article 6.

THIRD SCHEDULE

PART II CLASSES OF ACTIVITY SUBJECT TO REGISTRATION WITH LOCAL
AUTHORITY OR THE AGENCY

The carrying on by a person at a facility of any of the following activities, provided that

(1) the activity is not an activity which is carried on adjacent to, a facility at which a licensable activity is being carried on by the same legal entity, and

(2) In the cases of Class 5 and Class 6, the upper limits on the amount of waste, which may be accepted, shall relate to—

(a) the total quantity of waste which has been received and is proposed to be accepted at the facility at any time, or

(b) in the case of an activity which is carried on in, on or adjacent to, a facility at which a waste-related activity is being carried on which is the subject of a waste facility permit or certificate of registration, the total quantity of waste which has been received at both the facility itself and all such facilities at any time.

CLASS DESCRIPTION

No.

1. The storage, pending collection, of household hazardous waste (other than WEEE) at a civic amenity facility, recycling centre or central collection point, where not otherwise regulated by a waste licence or waste facility permit for the purpose of onward transport and submission to recovery at an authorised facility where—

(a) annual intake shall not exceed—

(i) in the case of liquid waste, 25,000 litres

(ii) in the case of non-liquid waste, 25 tonnes, and

(b) the maximum period of storage of waste does not exceed 30 days.

2. The reception and temporary storage of waste (other than WEEE) deposited by members of the public at a central collection point (including a temporary central collection point) when such activity is

undertaken by, on behalf of, or with the approval of the local authority, where the maximum amount of waste stored at any time does not exceed 1,000 tonnes.

3. The reception and interim storage of crashed or immobilised vehicles, other than end-of-life-vehicles, pending decisions by the registered owners of these vehicles, or as appropriate, by an authorised person of a local authority, or a member of An Garda Síochána on whether the vehicles are to be classed as end-of-life vehicles. The number of vehicles stored at any one time shall not exceed 6 at any one location and at any one time.

4. Reception and temporary storage, for a period not exceeding 30 days, pending collection for recovery of—

(a) less than 1000 kilograms of used batteries and accumulators other than waste specified in paragraph (b), or

(b) less than 10 tonnes of used automotive batteries and accumulators, or used industrial batteries and accumulators, or

(c) less than 1 tonne of discarded equipment containing chlorofluorocarbons (other than WEEE), or

(d) less than

(i) 540 cubic metres of household WEEE, other than waste specified in sub-paragraphs (ii) and (iii),

(ii) 12,000 units of WEEE categories in accordance with Category 5 of the first schedule of the Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2005 (S.I. No. 340 of 2005) or, as appropriate

(iii) 300 kilograms of mobile phones,

for the purpose of onward transport to an authorised treatment facility of WEEE when undertaken in accordance with the requirements of article 39 of

the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005.

5. Recovery of excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste, through deposition for the purposes of the improvement or development of land and the total quantity of waste recovered at the site shall not exceed 25,000 tonnes.
6. Recovery of inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone), for the purpose of the improvement or development of land and the total quantity of waste recovered at the site shall not exceed 10,000 tonnes.
7. Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding the improvement or development of land) where—
 - (a) the annual intake shall not exceed 10,000 tonnes, and
 - (b) the maximum quantity of residual waste consigned from the facility for submission to disposal at an authorised facility shall not exceed 15% of the annual intake.
8. This is a spare class.
9. The storage at the place of extraction, for an indefinite length of time to await possible use for site restoration of waste material arising from quarrying or excavation where —
 - (a) conditions on waste management have not been imposed under section 261 of the Planning and Development Act 2000 (No. 30 of 2000), and
 - (b) such material is in a chemically unaltered state.
10. The reception, storage and transfer of waste by a local authority, not mentioned elsewhere in this

schedule, where the annual intake does not exceed 10,000 tonnes, and—

(a) the maximum amount of waste dispatched from the facility for onward transport and disposal does not exceed 1,500 tonnes per annum, and

(b) a period of storage of waste for disposal does not exceed 30 days.

11. The reception, storage and biological treatment of biowaste by a local authority, not mentioned elsewhere in this schedule, where —

(a) the annual intake does not exceed 5,000 tonnes, and

(b) the maximum amount of biowaste, compost and digestate held at a composting facility does not exceed 2,000 tonnes at any time.

12. The storage and biological treatment on the premises where it is produced, of biowaste, where —

(a) the amount stored and treated does not exceed 50 tonnes per annum, and

(b) the maximum amount of biowaste, compost and digestate held at the facility at any time does not exceed 20 tonnes.

13. Recovery of organic waste, other than manure and sludge when used in agriculture for the purposes of benefit to agriculture (including energy crops), silviculture or ecological improvement, where the total quantity of organic waste recovered at the facility shall not exceed 1,000 tonnes per annum.

14. The reception and temporary storage of—

(a) waste, returned or recovered refrigerant gases in refrigerant containers, or

(b) waste, returned or recovered halons in halon

containers, or

(c) waste, returned or recovered fluorinated greenhouse gases in fluorinated greenhouse gas containers,

pending collection or onward transport prior to submission to recycling, reclamation or destruction in accordance with the relevant legislative requirements for the specific type of refrigerant gas, halon or fluorinated greenhouse gas, where recovery has the meaning assigned to it under Regulation (EC) No. 2037/2000 and Regulation (EC) No. 842/2006, and where the total quantity stored at any one time on a premises does not exceed 18 tonnes.

Note: Where the waste-related activities being undertaken within a facility encompass a number of the classes as set out within part II of the third schedule, the quantity of waste concerned shall be taken as meaning the total quantity of waste accepted at the facility taking account of inputs relating to all classes of activity and compared to the threshold of the principal class.



GIVEN the Official Seal of the Minister for the Environment, Heritage and Local Government,

31 March 2008

JOHN GORMLEY.

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 amend the Waste Management (Facility Permit and Registration) Regulations 2007 to correct certain typographical errors and omissions. These Regulations also replace the Third Schedule of those Regulations (specifying the classes of activity which are subject to a Waste Facility Permit application to a Local Authority

or subject to Registration with a Local Authority or the Agency).

1 S.I. No. 419 of 2007

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