

S.I. No. 286/2009 - Waste Management (Prohibition of Waste Disposal By Burning) Regulations 2009

S.I. No. 286 of 2009

WASTE MANAGEMENT (PROHIBITION OF WASTE DISPOSAL BY BURNING)
REGULATIONS 2009

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Statutory Notice

S.I. No. 286 of 2009

WASTE MANAGEMENT (PROHIBITION OF WASTE DISPOSAL BY BURNING)
REGULATIONS 2009

Notice of the making of this Statutory Instrument was published in

"Iris Oifigiúil" of 31st July, 2009.

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by section 7, 18 and 39 of the Waste Management Acts 1996 to 2008 and section 53 of the Air Pollution Act, 1987 (hereinafter referred to as the Act of 1987) hereby makes the following regulations:

Citation

1. These Regulations may be cited as the Waste Management (Prohibition of Waste Disposal by Burning) Regulations 2009.

Purpose of these Regulations

2. The purposes for which these Regulations are made include the prohibition of the disposal of waste by burning and the prevention of environmental pollution by such disposal.

Interpretation

3. In these Regulations-

(1) any reference to a Regulation or Schedule is a reference to a Regulation of, or Schedule to, these Regulations.

(2) "burning" means the combustion of waste-

(a) with or without control of the combustion air, and

(b) without an adequate stack or chimney so as to result in the emission of combustion products to the atmosphere in a manner that causes or is likely to cause environmental pollution;

"Facility Permit Regulations" means the Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. No. 821 of 2007) as amended by the Waste Management ((Facility Permit and Registration (Amendment)) Regulations 2008 (S.I. No. 86 of 2008); and

"IPPC licence" means a licence for the purposes of Part IV of the Environmental Protection Agency Acts 1992 to 2007.

Prohibitions

4. (1) Except as provided for in Regulation 5, a holder of waste shall not dispose of it by burning.

(2) (a) The owner or holder of a device, or

(b) The owner or occupier of a facility or lands which may facilitate the burning of waste shall take all reasonable steps to ensure that such a device, facility or lands is not used for the burning of waste, other than in accordance with-

(i) Regulation 6(2) of the Facility Permit Regulations, or

(ii) any Regulations which may be made under Section 53 of the Act of 1987, or

(iii) Regulation 5.

(3) Household waste shall not be disposed of by burning either within a building, the curtilage of a building, any self contained part of a building used for the purposes of living accommodation or its curtilage other than in accordance with-

(a) Regulation 6(2) of the Facility Permit Regulations, and

(b) any Regulations which may be made under Section 53 of the Act of 1987.

(4) Waste burners and other devices, whether designed primarily for the disposal of waste by burning or otherwise, and whether or not such devices are fitted with or attached to a stack or flue, shall not be used for waste disposal other than in accordance with any Regulations which may be made under the Act of 1987.

Permissible disposal of waste by burning

5. (1) Without prejudice to any other enactment or rule of law, Regulation 4 shall not apply when the following conditions are fulfilled-

(a) the burning of waste relates solely to material consisting of uncontaminated (free of dangerous substances, preservatives or other artificial impregnation or coating) wood, trees, tree trimmings, leaves, brush, or other similar waste generated by agricultural practices, but excluding garden and park wastes and cemetery wastes and wastes arising from infrastructural development works, provided that such burning is done as a final measure following the application of the following waste hierarchy-

(i) waste arisings are reduced in accordance with best agricultural practice,

(ii) waste is reused where practicable,

(iii) is recycled through shredding and use as compost or wood chippings, where practicable, and

(iv) is salvaged for use as fuel where practicable,

(b) where none of the options in sub-paragraph (a) are practicable or economically viable such waste may be disposed of by burning subject to the following conditions-

(i) the person carrying out the disposal shall take all reasonable measures to limit the overall nuisance or possibilities for endangering human health or causing environmental pollution or damage to adjoining hedgerows or habitats,

(ii) no accelerants may be used when undertaking the disposal activity,

(iii) the person carrying out the disposal shall notify the local authority concerned in advance of the intention to carry out the disposal by providing the information set out in the Schedule,

(c) the waste is sent for disposal at a facility in accordance with the conditions of a waste licence or an IPPC licence which has been granted by the Agency,

(d) untreated or uncontaminated (free of preservatives, paints, varnishes, laminate or other artificial impregnation or coating) wood waste and other similar materials is used in barbecues for the purpose of cooking food, or

(e) burning of waste takes place at events as may be determined locally by a local authority.

(2) A local authority may issue a notice to a person regarding steps that shall be taken regarding burning of waste and that person shall comply with the provisions of the notice.

Certificate of Registration

6. (1) The burning of waste in compliance with Regulation 5(1)(a) shall cease on 1 January 2014 unless an application is made for a Certificate of Registration under the Facility Permit Regulations in relation to the activity in question before that date.

(2) Where a person makes an application provided for in paragraph (1) the burning of waste in compliance with the procedures set out in Regulation 5(1)(a) shall cease following the issuing or refusal of a Certificate of Registration in accordance with the provisions of the Facility Permit Regulations.

(3) The registration holder shall comply with the provisions of Regulation 5 and any additional provisions as may be prescribed in the Certificate of Registration.

(4) Where a person does not make an application for a Certificate of Registration before the date prescribed in paragraph (1) the provisions of Regulation 5 shall not apply and the burning of such waste as an agricultural practice shall be an offence.

False or misleading information or failure to provide information

7. (1) A person shall not furnish information, which he or she knows to be false or misleading in a material respect, in support of an application or in response to any notice or other document used for the purposes of these Regulations and any person who does so shall be guilty of an offence.

(2) A person who fails to comply with a notice to provide information which a local authority or the Agency requires under these Regulations shall be guilty of an offence.

SCHEDULE Statutory Notice

Checklist of advance information to be provided by a person to a local authority concerning the proposed burning of agricultural waste in accordance with the provisions of Regulation 5(1)(a).

Name:

Address: (correspondence address)

Telephone:

Local authority administrative area:

I hereby give notice to (give the name of the local authority) of my intention to burn waste solely consisting of uncontaminated (free of dangerous substances, preservatives or other artificial impregnation or coating) wood, trees, tree trimmings, leaves, or brush, or other similar waste generated by agricultural practices (but excluding garden and park wastes and cemetery wastes and waste arising from infrastructural development works)

on (give the proposed date of the burning) at (location where proposed burning will take place).

Declaration of suitability: I declare that such burning will be done as a final measure following the application of the following waste hierarchy:

- i. reduction of waste arisings in accordance with best agricultural practice,
- ii. reuse of waste where practicable,
- iii. recycling of waste through shredding and use as compost or wood chippings, where practicable,
- iv. salvage of waste for use as fuel, where practicable,
- v. disposal, where none of the options at (i) to (iv) above are practicable or economically viable but subject to the following conditions-

(I) adequate measures will be taken to limit the overall nuisance or possibilities for endangering human health or causing environmental pollution, and

(II) no accelerants will be used when undertaking the disposal activity.

.....Name (block capitals)

Date

WARNING. A person who gives false or misleading information for the purpose of this notice may be guilty of an offence.



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

27 July 2009

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)

The purpose of these regulations is to abolish the practice of burning of waste, by making it an offence to do so under waste legislation. An exemption under these regulations exists to allow farmers, as a last resort, to dispose of wastes generated by agricultural practices.

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