

2006 No. 280

ENVIRONMENTAL PROTECTION

The Waste Management Regulations (Northern Ireland) 2006

Made - - - -

26th June 2006

Coming into operation- -

31st July 2006

The Department of the Environment has been designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to measures relating to the prevention, reduction and elimination of pollution of water, the prevention, reduction and elimination of pollution caused by waste and the regulation and control of the transit, import and export of waste (including recyclable materials).

The Department makes the following Regulations in exercise of the powers conferred on it by that section and by Articles 2(3), 4(3), 38(3)(a) and 77 of the Waste and Contaminated Land (Northern Ireland) Order 1997^(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Waste Management Regulations (Northern Ireland) 2006 and shall come into operation on 31st July 2006.

(2) The Interpretation Act (Northern Ireland) 1954^(d) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Waste and Contaminated Land (Northern Ireland) Order 1997

2.—(1) The Waste and Contaminated Land (Northern Ireland) Order 1997 is amended as follows.

(2) In Article 2 (General interpretation)—

(a) in paragraph (2)—

(i) in the definition of “commercial waste”—

(aa) at the end of sub-paragraph (b) insert “and”; and

(bb) repeal sub-paragraph (c);

(ii) in the definition of “industrial waste”—

(aa) at the end of sub-paragraph (c) delete “or”; and

(bb) at the end of sub-paragraph (d) insert—

“or

(a) S.I. 1989/2393, S.I. 1992/2870 and S.I. 1993/2661

(b) 1972 c.68

(c) S.I. 1997/2778 (N.I. 19)

(d) 1954 c.33 (NI)

- (e) any mine or quarry or any premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949;” and
- (iii) in the definition of “the Waste Directive” delete “and” at the end of sub-paragraph (a) and after sub-paragraph (b) insert—
 - “(c) the decision of the European Commission, dated 24th May 1996, adapting Annexes IIA and IIB to Directive 75/442/EEC on waste; and
 - (d) the Regulation of the European Parliament and of the Council, dated 29th September 2003, adapting to Council Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in instruments subject to the procedure referred to in Article 251 of the EC Treaty.”;
- (b) in paragraph (3)—
 - (i) repeal the words “but no regulations shall be made under this paragraph in respect of such waste as is mentioned in sub-paragraph(c) of the definition of “commercial waste””; and
 - (ii) for “that definition” substitute “the definition of commercial waste”.
- (3) In Article 4 (Prohibition on unauthorised or harmful deposit, treatment or disposal, etc., of waste)—
 - (a) for paragraph (2) substitute—
 - “(2) Subject to paragraph (2A), sub-paragraphs (a) and (b) of paragraph (1) do not apply in relation to household waste from a domestic property which is treated, kept or disposed of within the curtilage of the property.
 - (2A) Paragraph (2) does not apply to the treatment, keeping or disposal of household waste by an establishment or undertaking.”;
 - (b) at the beginning of paragraph (8), insert “Subject to paragraph (10)”;
 - (c) at the beginning of paragraph (9), insert “ Subject to paragraph (10),”;
 - (d) after paragraph (9), insert—
 - “(10) A person (other than an establishment or undertaking) who commits an offence under this Article in respect of a contravention of paragraph (1)(c) consisting of the treatment, keeping or disposal within the curtilage shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment, to a fine.”.
- (4) After Article 5(2) (Duty of care, etc. as respects waste) insert—
 - “(2A) It shall be the duty of the occupier of any domestic property to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes.”.
- (5) In Article 5(3) after “for the purpose of paragraph (1)(c)” insert “or paragraph (2A)”.
- (6) In Article 5(4) and (5) after “for the purposes of paragraph (1)(c)” insert “or paragraph (2A)”.
- (7) In Article 5(8) after “Any person who fails to comply with paragraph (1)” insert “or paragraph (2A)”.
- (8) Article 31(1) and (4) (Waste other than controlled waste) is repealed.

Amendment of the Groundwater Regulations (Northern Ireland) 1998

3.—(1) The Groundwater Regulations (Northern Ireland) 1998(a) are amended as follows.

(a) S.R. 1998 No. 401 as amended by S.R. 2003 No. 46 and S.R. 2003 No. 493.

- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “authorisation” at the end of paragraph (c) delete “and”; and
 - (b) after paragraph (d) insert—
 - “and
 - (e) a waste management licence, existing disposal licence or existing resolution of a district council;”.
- (3) In regulation 3 (exclusions from these regulations)—
- (a) at the end of sub-paragraph (b) insert “or”; and
 - (b) delete sub-paragraph (d).
- (4) In regulation 4 (Discharge of functions) for “and the Industrial Pollution Control (Northern Ireland) Order 1997” substitute “the Industrial Pollution Control (Northern Ireland) Order 1997, Part II of the Waste and Contaminated Land (Northern Ireland) Order 1997 (Waste on land)”.
- (5) After regulation 4 insert —

“Review of existing disposal licences and existing resolutions of a District Council

4A. The Department shall review all disposal licenses and all resolutions which authorise—

- (a) any disposal or tipping for the purpose of disposal of a substance in list I or II which might lead to an indirect discharge into groundwater of such a substance; or
- (b) a direct discharge into groundwater of a substance in list I or II;

and shall, so far as may be necessary to give effect to Council Directive 80/68/EEC exercise its powers under Articles 47(2) and (3) of the 1997 Order to apply Articles 10 and 12 of the 1997 Order (variation and revocation, etc. of licenses) in relation to any such authorisation.
”.

Amendment of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999

4.—(1) The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999^(a) are amended as follows.

- (2) In regulation 1(2) (Citation, commencement and interpretation)—
- (a) insert the following definitions at the appropriate places—
 - ““agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949;
 - “mines or quarries waste” means waste from a mine or quarry;”;
 - (b) for the definition of “the Community Regulation” substitute—
 - ““the Community Regulation” has the same meaning as in regulation 2(1) of the Animal By-Products Regulations (Northern Ireland) 2003;”.
- (3) In regulation 2(1) (Exemption from registration)—
- (a) for sub-paragraph (j)^(b) substitute—
 - “(j) a person who transports controlled waste which comprises only animal by-products collected and transported in accordance with Article 7(1) or 7(2) of the Community Regulation;”;
 - (b) after sub-paragraph (k) insert—

(a) S.R. 1999 No. 362; relevant amending Regulations are S.R. 2003 No. 493

(b) This subparagraph was substituted by Regulation 25(4) of S R 2003 No. 493 and incorrectly numbered (d) instead of (j).

“(1) a person who transports controlled waste which comprises only mines or quarries waste or agricultural waste.”; and

(c) delete paragraphs (1A) and (1B).

(4) In regulation 2(2) revoke the definitions of “catering waste”, “incineration”, “co-incineration” and “former foodstuffs”.

Amendment of the Controlled Waste Regulations (Northern Ireland) 2002

5.—(1) The Controlled Waste Regulations (Northern Ireland) 2002(a) are amended as follows.

(2) In regulation 2(1) (Interpretation) insert the following definition at the appropriate place—

““Directive waste” has the meaning given by regulation 1(3) of the Waste Management Licensing Regulations (Northern Ireland) 2003.”

(3) Regulation 2(2)(a) is revoked.

(4) In regulation 3(2) (Waste to be treated as household waste), after “domestic property” insert” and Article 5(2A) (Duty of occupiers of domestic property when transferring household waste)”.

(5) Regulation 4(1) is revoked.

(6) In regulation 6(2) (Waste to be treated as industrial waste), for “Article 5(2)” substitute “Article 5(2) and 5(2A))”.

(7) In regulation 8 (Waste not to be treated as industrial or commercial waste), for paragraphs (3) and (4), substitute—

“(3) Article 5 (Duty of care as respects waste) does not apply in relation to the collection and transportation of waste which comprises animal by-products and which is collected and transported in accordance with Article 7(1) or 7(2) of the Community Regulation.

(4) In this regulation, “Community Regulation” has the same meaning as in regulation 2(1) of the Animal By-Products Regulations (Northern Ireland) 2003 and “animal by-products” has the same meaning as in the Community Regulation.”.

(8) After regulation 8 insert—

“Waste not to be treated as household, industrial or commercial waste

8A. For the purposes of Part II of the Order waste which is not Directive waste shall not be treated as household waste, industrial waste or commercial waste.”.

(9) In Schedule 3 (Waste to be treated as industrial waste) after paragraph 19 insert—

“19A. Any other waste which is Directive waste, with the exception of any waste which is expressed by any other provision of these Regulations or Article 2(2) of the Order to be household waste or commercial waste.”.

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

6.—(1) The Pollution Prevention and Control Regulations (Northern Ireland) 2003(b) are amended as follows.

(2) In Part I of Schedule 3 (Prescribed date and transitional arrangements), in the table in paragraph 2(2) for the entry relating to section 5.2 substitute the following—

“Section 5.2	In the case of a landfill to which paragraph 1 of Schedule 4 to the 2003 Landfill Regulations applies, the period specified in the notice served on the operator under paragraph 1(9) of that Schedule and, in the case of a landfill to which paragraph 5 of that Schedule applies, the period of six
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(a) S.R. 2002 No. 248 as amended by S.R. 2002 No. 271 and S.R. 2003 No. 404

(b) S.R. 2003 No. 46; relevant amending Regulations are S.R. 2003 No. 496

Amendment of the Waste Management Licensing Regulations (Northern Ireland) 2003

7. The Waste Management Licensing Regulations (Northern Ireland) 2003(a) are amended in accordance with regulations 8 to 26.

Amendment of Regulation 1: Citation, commencement and interpretation

8. In paragraph (3)—

(a) insert the following definitions at the appropriate places—

““agriculture” has the same meaning as in the Agriculture Act (Northern Ireland) 1949;

“agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949;

“Directive waste” means any substance or object in the categories set out in Schedule 1 to the 1997 Order which the producer or the person in possession of it discards or intends or is required to discard but with the exception of anything excluded from the scope of the Directive by Article 2 of the Directive, “producer” means anyone whose activities produce Directive waste or who carries out pre-processing, mixing or other operations resulting in a change in its nature or composition;

“mines or quarries waste” means waste from a mine or quarry;

“plant tissue” means tissue from a plant and “plant” has the same meaning as in Article 2 of the Plant Health Order (Northern Ireland) 2006”; and

(b) for the definition of “the Community Regulation” substitute—

“the Community Regulation” has the same meaning as in regulation 2(1) of the Animal By-Products Regulations (Northern Ireland) 2003;”.

Amendment of Regulation 3: Technical competence

9. In paragraph (1) of regulation 3 (Technical Competence) for “Subject to paragraph (2) and regulation 4” substitute “Subject to paragraph (2) and regulations 4 and 5”.

Amendment of Regulation 14: Groundwater

10. Regulation 14 is revoked.

Amendment of Regulation 16: Exclusion of activities under other control regimes from waste management licensing

11.—(1) In paragraph (1)(e) omit “and”.

(2) At the end of paragraph (1)(f) insert—

“; and

(g) the disposal of agricultural waste in or on land under an authorisation under regulation 17 of the Groundwater Regulations (Northern Ireland) 1998.”.

Amendment of Regulation 18: Registration in connection with exempt activities

12.—(1) In paragraph (3) for “paragraphs (4) and (5)” substitute “paragraphs (4), (4A), (5) and 5(A)”.

(2) In paragraph (4) at the end insert “or where the waste which is the subject of the exempt activity consists of agricultural waste.”.

(a) S.R. 2003 No. 493 as amended by S.R. 2003 No. 496 and S.R. 2005 No. 300

(3) After paragraph (4) insert—

“(4A) Paragraph (3)(d) shall not apply to an exempt activity where the waste which is the subject of the exempt activity consists of agricultural waste.”.

(4) For paragraph (5) substitute—

“(5) In the case of exempt activities set out in paragraphs 8, 9, 10, 11, 13, 19, or 45 of Part I of Schedule 2, except where the waste which is the subject of the exempt activity consists of agricultural waste, any additional information specified in Part II of that Schedule shall be entered in the register.

(5A) In the case of exempt activities set out in paragraphs 9, 10, 11, 25 or 47A of Part I of Schedule 2, where the waste which is the subject of the exempt activity consists of agricultural waste or in any event where the activity is carried out under paragraph 25 the establishment or undertaking shall provide to the Department details of the benefit to agriculture or ecological improvement in accordance with Part III of Schedule 2 and these details shall be entered in the register.”.

(5) In paragraph (12) for “Subject to regulation 19(2)” substitute “Subject to paragraph (4A) and regulation 19(2)”.

Amendment of Regulation 19: Registration obligations

13. In paragraph (2) after the words “regulation 18” insert “or any fee required”.

Amendment of Regulation 22: Registration of brokers

14. In paragraph (4) after sub-paragraph (c)(iii) insert—

“(iv)arranges on behalf of another person (as dealer or broker) for the disposal or recovery of agricultural waste or mines or quarries waste only; or

(v) arranges on behalf of another person (as dealer or broker) for the disposal or recovery of waste comprising animal by-products only.”.

Amendment of paragraph 5 of Part I of Schedule 2: Burning as a fuel

15. Delete sub-paragraphs (d), (e) and (f).

Amendment of paragraph 9 of Part I of Schedule 2: Land treatment

16.—(1) Delete “and” at the end of sub-paragraph (3)(a).

(2) At the end of sub-paragraph (3)(b) insert—

“; and

(c) in areas to which the Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999(a) apply the treatment shall be carried out in accordance with those Regulations.”.

(3) In sub-paragraph (4) delete from “In this paragraph” to “1949 and”.

Amendment of paragraph 10 of Part I of Schedule 2: Spreading of sludge

17. For paragraph 10 (1) substitute—

“10.—(1) The spreading of sludge on land which is not land used for agriculture within the meaning of the 1990 Regulations if—

(a) S.R. 1999 No.156 as amended by S.R..2003 No. 259

- (a) it results in ecological improvement or in the case of spreading on land used for non-food crops not grown in short term rotation with food crops, it results in benefit to agriculture;
- (b) it does not cause the concentration in the soil of any of the elements listed in column 1 of the soil table set out in Schedule 2 to the 1990 Regulations to exceed the limit specified in column 2 of the table; and
- (c) in areas to which the Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999 apply the spreading shall be carried out in accordance with those Regulations.”.

Amendment of paragraph 11 of Part I of Schedule 2: Land improvement

18.—(1) In sub-paragraph (3)(c) delete “and”.

(2) After sub-paragraph (3)(d) insert—

“; and

- (e) in areas to which the Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999 apply the spreading shall be carried out in accordance with those Regulations.”.

Amendment of paragraph 23 of Part I of Schedule 2: Animal by-products

19. For paragraph 23, substitute—

“23.—(1) The recovery of waste consisting of animal by-products at one of the collection centres in accordance with an authorisation under regulation 27 of the Animal By-Products Regulations (Northern Ireland) 2003 if the total quantity of waste being recovered at that collection centre at any time does not exceed 10 tonnes.

(2) The storage of the waste intended to be submitted to such a recovery operation as is mentioned in sub-paragraph (1) if—

- (a) storage takes place in a secure place; and
- (b) no waste is stored for more than twelve months.

(3) In this paragraph, “collection centres” has the same meaning as in the Community Regulation.”.

Amendment of paragraph 25 of Part I of Schedule 2: Dredging of waterways

20.—(1) In sub-paragraph (1) for “sub-paragraphs (2) to (4)” substitute “sub-paragraphs (2) to (4A)”.

(2) After sub-paragraph (4) insert—

“(4A) In areas to which the Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999 apply the deposit shall be carried out in accordance with those Regulations.”.

Amendment of paragraph 29 of Part I of Schedule 2: Disposal by incineration at the place of production

21. In sub-paragraph (1) delete “or an exempt incineration plant for the purposes of Section 5.1 of Part I of Schedule 1 to the 2003 Regulations”.

Amendment of paragraph 30 of Part I of Schedule 2: Burning waste in the open

22.—(1) For sub-paragraph (1)(a) substitute—

“(a) the waste consists of plant tissue;”.

- (2) At the beginning of sub-paragraph (1)(b) insert “ it is agricultural waste or”.
- (3) After sub-paragraph (3), insert—
- “ (4) The incorporation into soil of ash from cereal straw or cereal stubble burned in reliance of the exemption conferred by sub-paragraph (1) if—
- (a) the incorporation is on the land where the ash was produced; and
 - (b) the ash is not, without reasonable excuse, allowed to remain on the soil for longer than 24 hours after the time of commencement of the burning, but is incorporated into the soil—
 - (i) within that period; or
 - (ii) in a case where to do so would be likely, having regard to wind conditions, to cause nuisance, as soon as conditions allow.
- (5) For the purposes of this paragraph “plant tissue” includes any linseed residues, oil-seed rape residues, field beans harvested dry residues, peas harvested dry residues, cereal straw or cereal stubble.”.

Insertion of paragraphs 47A and 47B of Part I of Schedule 2

23. After paragraph 47 of Part I of Schedule 2, insert—

“**47A.**—(1) The treatment of land used for agriculture with agricultural waste where such treatment results in benefit to agriculture or ecological improvement if—

- (a) the waste consists only of liquid milk;
- (b) the land is at least—
 - (i) 10 metres from a waterway; and
 - (ii) 50 metres from a spring, well or borehole;
- (c) before the treatment the waste is diluted with not less than an equal quantity of water or slurry;
- (d) at the start of the treatment and at any time during the treatment—
 - (i) the land has not been frozen for 12 or more hours during the preceding 24 hours; or
 - (ii) the land is not waterlogged, flooded or snow-covered;
- (e) in areas to which the Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999 apply the treatment shall be carried out in accordance with those Regulations;
- (f) the land is treated at a rate no greater than 50 cubic metres (tonnes) of diluted waste per hectare per 24 hours;
- (g) in any period of 30 days the land is treated with no more than 50 cubic metres (tonnes) of diluted waste per hectare; and
- (h) the addition of nitrogen in the waste material should take account of the soil nutrient status and other sources of nutrient supply and be matched to the needs of the planned crop rotation.

(2) The secure storage or dilution of waste intended to be used to treat land as specified in sub-paragraph (1).

(3) For the purposes of this paragraph, waste is subject to treatment only when it is spread on land or is injected or otherwise introduced into the surface of that land.

47B. The deposit of agricultural waste consisting of plant tissue at the place of production if—

- (a) there is no more than 250 cubic metres (tonnes) in any one deposit;
- (b) the deposit is made on land which is at least —

- (i) 10 metres from a waterway; and
- (ii) 50 metres from a spring, well or borehole;
- (c) the deposit is not immediately adjacent to any other deposit made in reliance on this exemption;
- (d) at the time the deposit is made—
 - (i) the land has not been frozen for 12 or more hours during the preceding 24 hours; or
 - (ii) the land is not waterlogged, flooded or snow-covered; and
- (e) in areas to which the Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999 apply the deposit shall be carried out in accordance with those Regulations.”.

Amendment of Part III of Schedule 2: Assessment Of Benefit To Agriculture Or Ecological Improvement

24.—(1) In paragraph 1 for “paragraphs 9, 10 and 11” substitute “paragraphs 9, 10, 11, 25 and 47A.”

(2) In paragraph 2 for any reference to “spreading” substitute “spreading, treatment or deposit”.

(3) For paragraph 2(b) substitute—

“(b) for exempt activities being carried out in areas to which the Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999 apply the exempt activity shall be carried out in accordance with those Regulations.”

Amendment of Part I of Schedule 3: Waste Framework Directive, etc.

25.—(1) In paragraph 10 (Modifications of Part II of the Pollution Control and Local Government (Northern Ireland) Order 1978) for “waste as defined in the 1997 Order” substitute “Directive waste”.

(2) In paragraph 11 (References to “waste” in planning and water legislation) for “waste as defined in the 1997 Order” substitute “Directive waste”.

(3) In paragraph 12 (Registration by professional collectors and transporters of waste, and by dealers and brokers) for sub-paragraphs (1) and (2) substitute—

“(1) Subject to sub-paragraph (3), it shall be an offence for an establishment or undertaking falling within—

- (a) sub-paragraph (a), (b), (d), (g) or (h) of regulation 2(1) of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999; or
- (b) sub-paragraph (j) or (l) of that paragraph after 31st January 2007;

to collect or transport waste on a professional basis unless it is registered in accordance with the provisions of this paragraph.

(2) Subject to sub-paragraph (3), it shall be an offence for an establishment or undertaking falling within—

- (a) sub-paragraph (a), (b) or (c)(i) - (iii) of regulation 22(4); and
- (b) sub-paragraph (c)(iv) or (v) of that paragraph after 31st January 2007;

to arrange for the recovery or disposal of waste on behalf of another person unless it is registered in accordance with the provisions of this paragraph.”.

(4) In paragraph 14 (record keeping)—

- (a) in sub-paragraph (4) for “45 and 46” substitute “45, 46 or 47A”;
- (b) for sub-paragraph (9) insert—

“(9) Regulation 43(6) of the Hazardous Waste Regulations (Northern Ireland) 2005 (Offence where act or default causes offence by another) shall apply to an offence under this paragraph as it applies to an offence under that regulation.”; and

(c) after sub-paragraph (9) insert—

“(10) Subject to sub-paragraph (11), a person guilty of an offence under this paragraph shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction or indictment to a fine or to imprisonment for a term not exceeding two years or both.

(11) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale if that offence is related to exempt activities conferred by regulation 17(1) and paragraphs 9, 10, 11, 13, 19, 46 or 47A of Part I of Schedule 2.”.

Amendment of Schedule 4: Registration Of Brokers Of Controlled Waste

26. For paragraph 5(1) substitute—

“(1) The Department may revoke a person’s registration as a broker—

- (a) if—
 - (i) that person or a relevant person has been convicted of a relevant offence; and
 - (ii) in the opinion of the Department, it is undesirable for that person to continue to be a registered broker; or
- (b) if, in the opinion of the Department, it is otherwise undesirable for that person to continue to be a registered broker.”.

Amendment of the Landfill Regulations (Northern Ireland) 2003

27.—(1) The Landfill Regulations (Northern Ireland) 2003(a) are amended as follows.

(2) In regulation 2(2) (Interpretation)—

(a) insert the following definitions in the appropriate places—

““agriculture” has the same meaning as in the Agriculture Act (Northern Ireland) 1949;

“agricultural waste” means waste from premises used for agriculture;

“mines or quarries waste” means waste from a mine or quarry;”.

(3) In regulation 4 (Cases where regulations do not apply)—

(a) at the end of sub-paragraph (c) delete “or”; and

(b) at the end of sub-paragraph (d), insert—

“; or

(e) any landfill for the disposal of agricultural waste or mines or quarries waste which ceased to accept waste for disposal before 31st July 2006.”.

(4) In regulation 8(4) (Conditions to be included in landfill permits) for “paragraphs 3(3) to (5)” substitute “paragraphs 3(3) to (5) and 6(2)”.

(5) In Schedule 4 (Transitional Provisions)—

(a) in paragraph 1(1) at the end of paragraph (f), add—

“; and

(g) it is not a landfill to which paragraph 5 applies.”;

(b) in paragraph 3—

(a) S.R. 2003 No. 496 as amended by S.R. 2004 No. 297

- (i) at the beginning of sub-paragraph (1), insert “Subject to sub-paragraph (1A)”; and
- (ii) after sub-paragraph (1), insert—
 - “(1A) This paragraph does not apply to a landfill to which paragraph 5 applies.”;
- (c) in paragraph 4(1)—
 - (i) at the end of paragraph (a), omit “and”; and
 - (ii) at the end of paragraph (b), add—
 - “; and
 - (c) it is not a landfill to which paragraph 5 applies.”;
- (d) at the end of paragraph 4, insert—
 - “5.—(1) This paragraph shall apply to a landfill if—
 - (a) it is a site for the disposal of—
 - (i) agricultural waste only;
 - (ii) mines or quarries waste only; or
 - (iii) agricultural waste and mines or quarries waste only; and
 - (b) it is in operation on 31st July 2006.
 - (2) A landfill to which this paragraph applies shall be treated as an existing installation for the purposes of Part I of Schedule 3 to the 2003 Regulations.
 - (3) If the operator proposes to continue to accept waste after 31st August 2006 he shall prepare a conditioning plan for the landfill and submit it to the Department by that date.
 - (4) The conditioning plan required by sub-paragraph (3) must—
 - (a) be prepared on a form provided for that purpose by the Department; and
 - (b) contain details of any corrective measures which the operator considers will be needed in order to comply with the relevant requirements of these Regulations.
 - (5) Closure of the landfill (in whole or in part) shall take place as soon as possible in accordance with sub-paragraphs (6) to (11) if—
 - (a) the operator does not propose to continue to accept waste;
 - (b) the Department decides, following the submission by the operator of a conditioning plan, that there is no reasonable prospect of the landfill or part of it meeting the relevant requirements of these Regulations (such decision, and the reasons for it, to be set out in a notice served on the operator); or
 - (c) the operator fails to submit a conditioning plan as required by sub-paragraphs (3) and (4).
 - (6) The operator shall submit to the Department such reports in connection with the closure of the landfill as it may require by notice in writing.
 - (7) The Department shall—
 - (a) assess all the reports submitted by the operator; and
 - (b) carry out an on-site inspection.
 - (8) The Department shall by notice in writing served on the operator require closure of the landfill in accordance with the control and monitoring procedures set out in Schedule 3 subject to such conditions as are specified in the notice for such period as the Department determines is reasonable, taking into account the time during which the landfill could present a hazard to the environment.
 - (9) The Department may, at any time during which the landfill could present a hazard, vary a notice served under sub-paragraph (8) by notice in writing served on the operator and such notice shall state the reasons for the Department’s decision to make the variation.
 - (10) The operator shall as soon as reasonably possible—

- (a) notify the Department of any significant adverse environmental effects revealed by the control and monitoring procedures required by sub-paragraph (8); and
- (b) comply with, and observe such conditions as are specified in, a notice served under sub-paragraph (8) (as such notice may be varied by a notice served under sub-paragraph (9)).

(11) In any case where the whole of a landfill is not subject to closure under sub-paragraph (5) the operator must within the relevant period submit an application for a landfill permit under regulation 10 of the 2003 Regulations so that the Chief Inspector shall determine whether waste may continue to be accepted for disposal at the landfill.

(12) Where the Chief Inspector decides to grant a landfill permit pursuant to an application made in accordance with sub-paragraph (11), he shall specify the date or dates on which the permit conditions authorised or required by these Regulations shall take effect.

(13) The Chief Inspector shall exercise his powers under sub-paragraph (12)—

- (a) on the basis of an assessment of environmental risks; and
- (b) with a view to achieving full compliance with the relevant requirements of these Regulations—
 - (i) as soon as possible; and
 - (ii) for landfills falling within paragraph (a) of Part A of Section 5.2 of Part I of Schedule 1 to the 2003 Regulations by 31st March 2007 at the latest; and
 - (iii) for landfills falling within paragraph (b) of Part A of Section 5.2 of Part I of Schedule 1 to the 2003 Regulations by 16th July 2009.

(14) A notice served under sub-paragraph (8) shall be treated as a closure notice under regulation 16(1) for the purposes of regulation 28 of the 2003 Regulations (Appeals) and a condition of such a notice shall be treated as a condition of a permit for the purposes of regulation 24 of the 2003 Regulations (Enforcement notices).

(15) Regulation 22 of the 2003 Regulations (Fees and charges in relation to permits) shall apply in relation to a notice under sub-paragraph (8) as if any reference to a permit included a reference to such a notice.

(16) In this paragraph “relevant period” means the appropriate time period as specified at section 5.2 in the table at paragraph 2(2) of Schedule 3 to the 2003 Regulations.

6.—(1) The Department shall by notice in writing served on the operator before 31st October 2006, classify any landfill to which paragraph 5 applies and which continues to accept waste which appears to the Department to require such classification as a landfill for hazardous waste.

(2) Regulations 9, 10 and 12 of these Regulations shall impose obligations directly on the operator of any landfill which is for the time being classified under sub-paragraph (1) as a landfill for hazardous waste pending determination of an application made pursuant to paragraph 5(11).”.

Amendment of the Hazardous Waste Regulations (Northern Ireland) 2005

28.—(1) The Hazardous Waste Regulations (Northern Ireland) 2005(a) are amended as follows.

(2) In regulation 16 (agricultural waste) for “1st September 2006”, substitute “31st July 2007”.

(3) In regulation 17 (mines and quarries waste) for “1st September 2006”, substitute “31st July 2007”.

(a) S.R. 2005 No. 300

Transitional provision

29.—(1) Paragraphs (a) and (b) of Article 4(1) of the Waste and Contaminated Land (Northern Ireland) Order 1997 shall not apply to the deposit, disposal or recovery of mines or quarries waste or agricultural waste by any person at any premises if he had carried on the activity in question at those premises before 31st July 2006.

(2) Subject to paragraph (3), the exemption conferred by paragraph (1), in relation to an activity carried on by a person at any premises, shall after 31st July 2007 cease to have effect in relation to the carrying on of that activity at those premises unless on or before that date he applies for a waste management licence in relation to the activity in question.

(3) Where a person makes such an application as is mentioned in paragraph (2), the exemption conferred by paragraph (1) shall continue to have effect in relation to the activity in question until the date on which the licence applied for is granted or, if the application is (or is deemed to be) rejected, until the date on which—

- (a) the period for appealing expires without an appeal having been made; or
- (b) any appeal is withdrawn or finally determined.

(4) In this regulation—

“agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949; and

“mines or quarries waste” means waste from a mine or quarry.

Sealed with the Official Seal of the Department of the Environment on 26th June 2006



Wesley Shannon
A Senior Officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement (in part), Council Directive 75/442 EEC on waste(a) (“the Waste Framework Directive”) and Council Directive 1999/31/EC on the landfill of waste(b) (“the Landfill Directive”).

Regulation 2 amends Articles 2, 4, 5 and 31 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (“the Order”).

The amendments to Article 2 bring waste from mines and quarries and agricultural waste within the waste management controls established under the Order.

The amendments to Article 4 mean that, in relation to household waste, an establishment and undertaking must comply with all the requirements of Article 4(1) of the Order, but that a person who is not an establishment or undertaking must only comply with the requirements of Article 4(1)(c).

Regulations 3, 6 and 28 make minor amendments to subordinate legislation.

Regulation 4 amends the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 so that the registration requirements of the Order do not apply to those who only transport animal by-products waste, mines or quarries waste or agricultural waste on a professional basis. Instead the registration requirements of paragraph 12 of Part I of Schedule 3 to the Waste Management Licensing Regulations (Northern Ireland) 2003 (“the 2003 Regulations”) will apply in these circumstances (see regulation 25(3)).

Regulation 5 amends the Controlled Waste Regulations (Northern Ireland) 2002. The amendment in regulation 5(7) provides that Article 5 of the Order (duty of care, etc., as respects waste) does not apply to waste which comprises animal by-products collected and transported in accordance with the Community Regulation (as defined in regulation 5(7)). The amendment in regulation 5(9) provides that any Directive waste is to be classified as industrial waste if it is not otherwise classified as household or commercial waste.

Regulations 7 –26 amend the 2003 Regulations in a number of respects. These include inserting new paragraphs into Schedule 2 to the WML Regulations to provide for exemptions from waste management licensing for activities involving – the recovery of animal by-products (regulation 19), the treatment of land with liquid milk and the deposit of plant tissue (regulation 23).

Regulation 27 amends the Landfill Regulations to ensure that the Landfill Directive is transposed in relation to agricultural waste and mines and quarries waste. It provides that if the operator of a landfill taking agricultural waste or mines or quarries waste proposes to continue to accept waste after the date on which these Regulations come into operation then within one month of that date he must prepare and submit a conditioning plan to the Department for that site.

Regulation 29 contains transitional provisions which apply to the deposit, disposal or recovery of agricultural waste, or mines or quarries waste, for a period of twelve months after the Regulations come into operation.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the library of the Northern Ireland Assembly and copies can be obtained from Environmental Policy Division, 20-24 Donegall Street, Belfast BT1 2GP.

(a) O.J. No. L194, 25.7.1975, p. 39 (as amended by Council Directives 91/156/EEC (O.J. No. L78, 26.3.1991, p. 32), 91/692/EEC (O.J. No. L377, 31.12.1991, p. 48 (as corrected by Corrigendum, O.J. No. L146, 13.6.2003, p. 52)), Commission Decision 96/350/EC (O.J. No. L135, 6.6.1996, p. 32) and Regulation (EC) No. 1882/2003 (O.J. No. L284, 31.10.2003, p. 1)).

(b) O.J. No. L182, 16.7.1999, p.1 (as amended by Regulation (EC) No. 1882/2003 (O.J. No. L284, 31.10.2003, p. 1)).

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