STATUTORY RULES OF NORTHERN IRELAND

2014 No. 304

ENVIRONMENTAL PROTECTION

The Pollution Prevention and Control (Industrial Emissions) (Amendment) Regulations (Northern Ireland) 2014

Laid before the Assembly in draft

Made - - - - 9th December 2014

Coming into operation in accordance with regulation 1

The Department of the Environment, in exercise of the powers conferred by Article 4(1) of, and Schedule 1 to, the Environment (Northern Ireland) Order 2002(**1**), makes the following Regulations.

In accordance with Article 4(4) of that Order, the Department of the Environment has consulted district councils and such bodies or persons appearing to it to be representative of the interests of district councils as it considers appropriate, such bodies or persons appearing to it to be representative of the interests of industry, agriculture and business as it considers appropriate and such other bodies or persons as it considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Pollution Prevention and Control (Industrial Emissions) (Amendment) Regulations (Northern Ireland) 2014 and shall come into operation on the day after the day on which they are made.

Amendment of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013

2. The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(**2**) are amended in accordance with regulations 3 to 13.

Amendment of regulation 2 (interpretation: general)

3. In regulation 2, at the appropriate alphabetical places, insert the following definitions—

""cogeneration" means the simultaneous generation in one process of thermal energy and electrical or mechanical energy;

(**1**) S.I. 2002/3153 (N.I. 7)
(**2**) S.R. 2013 No. 160

"cost-benefit analysis" means a cost-benefit analysis carried out in accordance with Part 2 of Annex IX of the Energy Efficiency Directive;

"Energy Efficiency Directive" means Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC(**3**);

"high-efficiency cogeneration" means cogeneration meeting the criteria laid down in Annex II of the Energy Efficiency Directive;

"net rated thermal input" means the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts;

"rated thermal input" means the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the gross calorific value of the fuel and expressed as megawatts;".

Amendment of regulation 7 (discharge and scope of functions)

4. In regulation 7—

(a) for paragraphs (2) to (4) substitute—

"(2) Those functions, in their application to a Part A installation or Part A mobile plant, shall be functions of the chief inspector and shall be exercisable for the purpose of—

(a) achieving a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land; and

(b) where appropriate, ensuring that cost-benefit analyses are carried out in accordance with Article 14(5) of the Energy Efficiency Directive and Schedule 13A.

(3) Those functions, in their application to a Part B installation or Part B mobile plant, shall be functions of the chief inspector and, subject to paragraph (5), shall be exercisable for the purpose of—

(a) preventing or, where that is not practicable, reducing emissions into the air; and

(b) where appropriate, ensuring that cost-benefit analyses are carried out in accordance with Article 14(5) of the Energy Efficiency Directive and Schedule 13A.

(4) Those functions, in their application to a Part C installation, shall be functions of the district council in whose district the installation is (or will be) situated and, subject to paragraph (5), shall be exercisable for the purpose of—

(a) preventing or, where that is not practicable, reducing emissions into the air; and

(b) where appropriate, ensuring that cost-benefit analyses are carried out in accordance with Article 14(5) of the Energy Efficiency Directive and Schedule 13A.";

(b) at the end of paragraph (5) insert "and, where appropriate, ensuring that cost-benefit analyses are carried out in accordance with Article 14(5) of the Energy Efficiency Directive and Schedule 13A";

(**3**) O.J. No. L 315/1, 14.11.2012, p.1

(c) at the end of the closing words of paragraph (6) insert "and, where appropriate, ensuring that cost-benefit analyses are carried out in accordance with Article 14(5) of the Energy Efficiency Directive and Schedule 13A"; and

(d) in paragraph (17) for "Schedules 8 to 13" substitute "Schedules 8 to 13A".

Amendment of regulation 10 (permits: general provisions)

5. In regulation 10—

(a) in paragraph (1) after "Schedule 4" insert "and, where appropriate, Schedule 13A";

(b) in paragraph (2)—

(i) for "(3) and (4)" substitute "(3) to (4A)"; and

(ii) after "of", in the first place where it occurs, insert ", or Schedule 13A to,"; and

(c) after paragraph (4) insert—

"(4A) In the case of an application for a permit to operate an installation or mobile plant carrying out only an activity falling within head (b) of Part C of section 1.1 of Schedule 1—

(a) any permit granted pursuant to the application shall only contain conditions required for complying with paragraphs 13 to 18 of Schedule 13A; and

(b) regulations 11, 12, 14 and 16 shall not apply.".

Amendment of regulation 19 (variation of conditions of permits)

6. In regulation 19—

(a) in paragraph (3) after "Schedule 7", in the first place where it occurs, insert "and, where appropriate, Schedule 13A";

(b) in paragraph (4) after "of", in the first place where it occurs, insert ", or Schedule 13A to,"; and

(c) after paragraph (5) insert—

"(5A) Where the enforcing authority decides to vary the conditions of a permit for an installation or mobile plant carrying out only an activity falling within head (b) of Part C of section 1.1 of Part 1 of Schedule 1—

(a) the variation notice shall only contain conditions required for complying with paragraphs 13 to 18 of Schedule 13A; and

(b) regulations 11, 12, 14 and 16 shall not apply.".

Amendment of regulation 26 (duty of the enforcing authority to undertake inspections and to ensure compliance with conditions)

7. In regulation 26—

(a) in paragraph (3) for "all installations and mobile plant" substitute "all Part A installations and Part A mobile plant";

(b) in paragraph (7) after "inspections" insert "of Part A installations and Part A mobile plant"; and

(c) in paragraph (8) after "visit", in the opening words, insert "to a Part A installation or Part A mobile plant".

Amendment of regulation 36 (offences)

8. In regulation 36—

(a) in paragraph (1)—

(i) after sub-paragraph (l) omit "or";

(ii) in sub-paragraph (m) for "inspector." substitute "inspector; or"; and

(iii) after sub-paragraph (m) insert—

"(n) to fail to comply with paragraph 4, 7, or 10 of Schedule 13A."; and

(b) in paragraph (2) for "(a), (b), (d) or (k)" substitute "(a), (b), (d), (k) or (n)".

Amendment of Schedule 1 (activities, installations and mobile plant)

9. In Schedule 1—

(a) in Part C of section 1.1 (combustion activities), after head (a), insert—

"(b) Unless falling within Part A of this section, or head (a) of this Part, burning any fuel or fuels in a combination of boilers, furnaces, turbines or compression ignition engines on the same site which, when added together, have a net rated thermal input of 20 megawatts or more but less than a rated thermal input of 50 megawatts.";

(b) at the end of Part C of section 1.1, after paragraph 1 (interpretation of Part C) insert—

"**2.** Head (b) of this Part shall only apply to installations to which Article 14(5) of the Energy Efficiency Directive applies."; and

(c) in Part C of section 2.2 (non-ferrous metals), omit—

"Interpretation of Part C

1. In this Part "net rated thermal input" is the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal.".

(d) in Part C of section 6.6 (timber activities), in head (a) for "planning" substitute "planing".

Amendment of Schedule 3 (prescribed date and transitional arrangements)

10. In Part 2 (Part B and Part C installations and mobile plant) of Schedule 3, for paragraph 5, substitute—

"**5.**—(1) Save as set out in sub-paragraphs (2) and (3), the prescribed date for a Part B or Part C installation or a Part B or Part C mobile plant is 7th January 2013.

(2) In the case of an installation or mobile plant, which will carry out only an activity falling within head (b) of Part C of section 1.1 of Schedule 1 and which comes into operation in the period from the operational date, the prescribed date is the operational date.

(3) In the case of an installation or mobile plant, carrying out only an activity falling within head (b) of Part C of section 1.1 of Schedule 1 and which came into operation in the period ending on the operational date, the prescribed date shall be the date on which the plant is first operated, after a substantial refurbishment first takes place in the period from the operational date.

Interpretation of Part 2

"operational date" means, the date on which the Pollution Prevention and Control (Industrial Emissions) (Amendment) Regulations (Northern Ireland) 2014 come into operation;

"substantial refurbishment" means, in relation to paragraph 5, a refurbishment whose cost exceeds 50% of the investment cost for a new comparable unit, but the fitting of equipment to carry out the activity falling within head (a) of Part A of section 6.10 of Schedule 1 shall not be considered as refurbishment; and

"unit" means any boilers, furnaces, kilns, turbines or engines forming part of an installation which added together have a rated thermal input of more than 20 megawatts.".

Amendment of Schedule 4 (grant of permits)

11. In Schedule 4—

(a) in the opening words of paragraph 1(1) of Part 1 (applications for permits), for "2" substitute "1A";

(b) after paragraph 1 of Part 1, insert—

"**1A.** Paragraph 1(1) applies in relation to an application for a permit to operate an installation or mobile plant carrying out only an activity falling within head (b) of Part C of section 1.1 of Part 1 of Schedule 1, as if the following head was substituted for heads (e) to (j) of that paragraph—

(e) a cost-benefit analysis;";

(c) for paragraph 11 of Part 1, substitute—

"**11.** Paragraph 7 shall not apply in relation to an application for a permit to operate an installation involving only—

(1) the carrying out of an activity falling within heads (b), (c), (d) or (e) of Part C of section 1.2 of Part 1 of Schedule 1;

(2) dry cleaning, as defined in section 7 (SED activities) of Part 1 of Schedule 1; or

(3) the carrying out of an activity falling within head (b) of Part C of section 1.1 of Part 1 of Schedule 1.";

(2) in the opening words of paragraph 12(1) of Part 2 (determination of applications), for "paragraph 30", substitute "paragraphs 13 and 30"; and

(3) for paragraph 13 of Part 2, substitute—

"**13.** Paragraph 12 does not apply in relation to an application for—

(1) a permit to operate an installation involving only dry cleaning as defined in section 7 (SED activities) of Part 1 of Schedule 1; or

(2) a permit to operate an installation or mobile plant carrying out only an activity falling within head (b) of Part C of section 1.1 of Part 1 of Schedule 1.".

Amendment of Schedule 7 (variation of conditions)

12. In Schedule 7—

(1) in paragraph 2 of Part 1 (applications for variations of conditions), for "II" substitute "I";

(2) in paragraph 3(c) of Part 1, for "II" substitute "I";and

(3) in paragraph 13 of Part 2 (variation notices), for "II" substitute "I".