STATUTORY RULES OF NORTHERN IRELAND

2011 No. 101

ENVIRONMENTAL PROTECTION

The Landfill (Amendment) Regulations (Northern Ireland) 2011

Made - - - -	*14th March 2011*
Coming into operation	*15th April 2011*

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

In accordance with Article 4(4) of that Order, the Department 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 and 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 Landfill (Amendment) Regulations (Northern Ireland) 2011 and shall come into operation on 15 April 2011.

Amendment of the Landfill Regulations (Northern Ireland) 2003

2. The Landfill Regulations (Northern Ireland) 2003(**2**) are amended as follows.

Amendment of regulation 2 (interpretation)

3. In regulation 2(2)—

(a) immediately after the definition of "Chief Inspector", insert—

""compliance notice" has the meaning given to it by regulation 15A(2);"

(b) for the definition of "operator", substitute—

""operator" means—

(a) a person falling within the definition of "operator" in regulation 2(2) of the 2003 Regulations or is treated as an operator under regulation 2(3) of those Regulations;

(**1**) S.I. 2002/3153 (N.I. 7)
(**2**) S.R. 2003 No. 496

(b) a person who held a disposal licence in respect of a landfill immediately prior to its cancellation or revocation in the specified period under Article 9(3) or 10(4) of the 1978 Order;

(c) a council which rescinded a resolution in respect of a landfill in the specified period under Article 13(4)(a) of the 1978 Order; or

(d) a person who held a waste management licence or site licence in respect of a landfill in the specified period."

(c) immediately after the definition of "disposal licence", insert—

""emergency" means a case in which it appears to the inspector in question—

(a) that there is an immediate risk of serious pollution; or

(b) that circumstances exist which are likely to endanger life or health,

and that immediate entry to any premises is necessary to verify the existence of that risk or those circumstances or to ascertain the cause of that risk or those circumstances or to effect a remedy;.".

(d) immediately after the definition of "inert waste", insert—

""inspector" means a person appointed under regulation 8(1) or (5) of the 2003 Regulations;".

(e) immediately after the definition of "operator", insert—

""premises" means any land, vehicle or vessel; and "vehicle" means any motor vehicle or trailer within the meaning of the Road Traffic (Northern Ireland) Order 1981(**3**);".

(f) immediately after the definition of "resolution" insert the following definitions in alphabetical order—

""site licence" has the same meaning as in the 1997 Order;

"specified period" means the period commencing on 16th July 2001 and ending on 5th January 2004."

Amendment of regulation 4 (cases where regulations do not apply)

4. For paragraph (d) of regulation 4, substitute—

"any landfill which finally ceased to accept waste for disposal before 16th July 2001."

Amendment of regulation 15 (closure and after-care procedures for landfills)

5.—(1) For paragraph (1) of regulation 15, substitute—

"(1) The following closure and after-care procedures shall apply to landfills, other than those landfills to which regulation 15A applies.".

(2) After regulation 15, add—

"**Compliance**

15A.—(1) The following procedure shall apply to any landfill in respect of which—

(a) a disposal licence was revoked or cancelled under Article 9(3) or 10(4) of the 1978 Order;

(**3**) S.I. 1981/154 (N.I. 1)

(b) a resolution was rescinded by a Council under Article 13(4)(a) of the 1978 Order; or

(c) a site licence or waste management licence was surrendered under Article 13 of the 1997 Order,

in the specified period.

(2) The Chief Inspector shall, by notice served in writing ("compliance notice") on the operator, impose requirements as to—

(a) closure of the landfill;

(b) maintenance, monitoring and control of the landfill;

(c) monitoring and analysis of landfill gas and leachate from a landfill and the groundwater regime in the vicinity of a landfill in accordance with Schedule 3;

(d) notification to the Chief Inspector of any significant adverse environmental effects revealed by any of the above measures.

(3) The Chief Inspector may, by notice in writing to the operator, modify the requirements specified in a compliance notice (whether by addition to, variation or withdrawal).

(4) The operator may, by notice in writing to the Chief Inspector, apply to modify the requirements specified in a compliance notice (whether by addition to, variation or withdrawal).

(5) The Chief Inspector shall, by notice in writing, notify the operator when he is satisfied that the requirements of a compliance notice have been fully met and that the condition of the land is unlikely to cause pollution of the environment or harm to human health.

Appeals from decisions with respect to compliance notices

15B.—(1) Where—

(a) a compliance notice is served on the operator of a landfill; and

(b) a requirement is imposed under a compliance notice; or

(c) an application by the operator to modify the requirement specified in a compliance notice has been refused by the Chief Inspector,

the operator may appeal against the imposition of a requirement, or the refusal of an application to modify the requirement, by notice in writing to the Planning Appeals Commission ("the Commission") together with a statement of the grounds of the appeal, before the expiry of the period of 2 months beginning with the date on which the requirement or refusal is notified to the operator.

(2) The Commission shall determine the appeal and paragraphs (1), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991 shall apply in relation to the determination of the appeal as they apply in relation to the determination of an appeal under that Order.

(3) If either party to the appeal so requests, the Commission shall afford to each of them an opportunity of appearing before and being heard by the Commission.

(4) On receipt of an appeal under paragraph (1), the Commission shall give notice of the appeal to the Chief Inspector.

(5) Upon appeal, the Commission may uphold, revoke or modify a requirement and the requirements in a compliance notice shall have effect from the date of the determination of the appeal as upheld, revoked or modified by the Commission.

(6) While an appeal is pending in a case falling within paragraph (1), the requirement in question shall, subject to paragraph (7), be ineffective; and if the appeal is withdrawn the requirement shall become effective from the end of the day on which the appeal is withdrawn.