STATUTORY RULES OF NORTHERN IRELAND

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(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) 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(**3**).

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(**4**) 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"—

(**1**) S.I. 1989/2393, S.I. 1992/2870 and S.I. 1993/2661
(**2**) 1972 c. 68
(**3**) S.I. 1997/2778 (N.I. 19)
(**4**) 1954 c. 33 (NI)

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

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

"or

(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(**5**) are amended as follows.

(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(**6**) 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;"; 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;".

(3) In regulation 2(1) (Exemption from registration)—

(**5**) S.R. 1998 No. 401 as amended by S.R. 2003 No. 46 and S.R. 2003 No. 493.
(**6**) S.R. 1999 No. 362; relevant amending Regulations are S.R. 2003 No. 493

(a) for sub-paragraph (j)(**7**) 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—

"(l) 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(**8**) 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.".

(**7**) This subparagraph was substituted by Regulation 25(4) of S R 2003 No. 493 and incorrectly numbered (d) instead of (j).
(**8**) S.R. 2002 No. 248 as amended by S.R. 2002 No. 271 and S.R. 2003 No. 404

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

6.—(1) The Pollution Prevention and Control Regulations (Northern Ireland) 2003(**9**) 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 months starting on 31st August 2006."

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

7. The Waste Management Licensing Regulations (Northern Ireland) 2003(**10**) 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".

(**9**) S.R. 2003 No. 46; relevant amending Regulations are S.R. 2003 No. 496
(**10**) S.R. 2003 No. 493 as amended by S.R. 2003 No. 496 and S.R. 2005 No. 300