STATUTORY RULES OF NORTHERN IRELAND

2006 No. 98

ENVIRONMENTAL PROTECTION

The Pollution Prevention and Control (Miscellaneous Amendments) Regulations (Northern Ireland) 2006

Made - - - -	*9th March 2006*
Coming into operation	*23rd April 2006*

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, it 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 (Miscellaneous Amendments) Regulations (Northern Ireland) 2006 and shall come into operation on 23rd April 2006.

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

2.—(1) The Pollution Prevention and Control Regulations (Northern Ireland) 2003(**2**) shall be amended as follows.

(2) In regulation 2 (Interpretation: general), after paragraph (2A) insert the following paragraph—

"(2B) For the purposes of these Regulations any change in operation of an installation which in itself meets any of the thresholds specified for a Part A activity under Part 1 of Schedule 1 shall be treated as a substantial change in operation.".

(3) In regulation 37 (Directions to enforcing authorities) after paragraph 3, insert the following paragraph—

"(3A) Where the Department receives information pursuant to Article 17(4) of the Directive, it shall, for the purpose of complying with that Article, direct the chief inspector

(**1**) S.I. 2002 No. 3153 (N.I. 7)
(**2**) S.R. 2003 No. 46 as amended by S.R. No. 390, S.R. 2003 No. 496, S.I.2003/3311, S.R. 2004 No. 36, S.R. 2004 No. 297, S.R. 2004 No. 507, S.R. 2005 No. 285, S.R. 2005 No. 300 and S.R. 2005 No. 454

to take such steps as it considers appropriate for the purpose of bringing the information to the attention of persons in Northern Ireland likely to be affected by the operation of the installation to which the information relates."

(4) In Schedule 1 (Activities, Installations and Mobile Plant)–

(a) in Section 1.2 (Gasification, Liquefaction and Refining Activities), under the heading "Interpretation of Part A", in paragraph 3, after the word "has" insert the word "not";

(b) in Part A of Section 4.7 (Manufacturing Activities Involving Carbon Disulphide or Ammonia) in paragraph (a) for the words "paragraph (c)" substitute "paragraph (a)";

(c) in paragraph (h) of Part A of Section 5.1 (Incineration and Co-Incineration of Waste) delete the words ", nitrogen or sulphur";

(d) after paragraph (h) of Part A of Section 5.1 (Incineration and Co-Incineration of Waste) insert the following paragraph—

"(i) The incineration of animal carcasses or animal waste in a plant which is not an incineration plant or a co-incineration plant, with a capacity of less than 1 tonne per hour but with a treatment capacity of more than 10 tonnes per day of animal carcasses or animal waste or, in aggregate, of both.",

(e) in the definition of "excluded plant" under the heading "Interpretation of Section 5.1"–

(i) for paragraph (vii) substitute the following paragraph—

"(vii) animal carcasses as regulated by Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3rd October 2002 laying down health rules concerning animal by-products for human consumption; or";

(ii) for paragraph (viii) substitute the following paragraph

"(viii) waste resulting from exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installation; and"

(5) In Schedule 3 (Prescribed Date and Transitional Arrangements), in the Table in paragraph 2(2) of Part 1—

for the words—

"Section6.4	1st-30th April 2006"

substitute the words

"Section 6.4(a)	1st-30th April 2008
Section 6.4 (b)-(d)	1st-30th April 2006"

(6) In Schedule 4 (Grant of Permits)—

(a) in paragraph 1, after sub-paragraph (o) insert the following sub-paragraph—

"(oo) in the case of an application for a permit to operate a Part A installation, an outline of the main alternatives, if any, studied by the applicant;";

(b) in paragraph 6(e), after the word "where" insert the words ", and in the case of an application for a permit to operate a Part A installation, how and what times,";

(c) after paragraph 6 insert the following paragraph—

"**6A.** In the case of an application for a permit to operate a new Part A installation, the advertisement required by paragraph 5 shall, in addition to the information required by paragraph 6—

(a) explain that the particulars of the application contained in the register specified in paragraph 6(e) include a description of the elements listed in paragraph 1(1); and

(b) where applicable, state that the determination of the application is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with paragraph 17.";

(d) in paragraph 7, after the words "paragraphs 1 and 6" insert the words "(and where applicable 6A)";

(e) in paragraph 12, for sub-paragraph (2)(c) substitute the following sub-paragraph—

"(2) in the case of any other person—

(i) for applications, the period of 42 days: and

(ii) for draft determinations, the period of 20 working days,

beginning with the date on which the application or draft determination is advertised pursuant to paragraph 5 or 15A.";

(f) in paragraph 15, for sub-paragraph (1) substitute the following sub-paragraph—

"(1) Except in a case where an application has been referred to the Department under paragraph 14 and subject to paragraph 18, the enforcing authority shall give notice of—

(a) for new Part A installations and for existing Part A installations where there is a substantial change to the operation of the installation, its draft determination of an application for a permit, within the period of six months beginning with the day on which it received the duly made application;

(b) for new Part A mobile plant and for existing Part A mobile plant where there is a substantial change to the operation of the mobile plant, its determination of an application for a permit, within the period of six months beginning with the day on which it received the duly made application;

(c) for existing Part A installations and existing Part A mobile plant other than those referred to in head (a) or head (b), its determination of an application for a permit, within the period of nine months beginning with the day on which it received the duly made application;

(d) for new Part B and Part C installations and new Part B and Part C mobile plant,its determination of an application for a permit, within the period of six months beginning with the day on which it received the duly made application;

(e) in any case, within such longer period as may be agreed with the applicant.";

(g) after paragraph 15 insert the following paragraphs—

"**15A.**—(1) The enforcing authority shall—

(a) within a period of 3 working days beginning with the date on which notice of a draft determination is given pursuant to paragraph 15(1)(a), advertise the notice on its web-site, and if it considers appropriate, by any other means; and

(b) take all relevant steps specified in the advertisement as falling to be carried out by the enforcing authority, within the time-periods set out in that advertisement.

(2) In the case of a notice of a draft determination in respect of an application which has been forwarded by the Department to another Member State under paragraph 17, the enforcing authority shall forward copies of the draft determination and of the

advertisement made pursuant to this paragraph to the Department at the same time as the draft determination is advertised.

15B.—(1) An advertisement required by paragraph 15A shall—

(a) explain where, how and what times any register which contains—

(i) any additional information which is relevant to the determination of the application which has become available after the application is advertised pursuant to paragraph 5;

(ii) a copy of the draft determination;

(iii) information on any guidance issued by the Department to the enforcing authority relevant to the application; and

(iv) information on the arrangements for public participation and the reasons and considerations on which the draft determination is based;

may be inspected and that it may be inspected free of charge;

(b) explain that any person may make representations in writing to the enforcing authority within the period of 20 working days beginning with the date of the advertisement and give the enforcing authority's address for receiving representations;

(c) explain that where—

(i) no representations are made to the enforcing authority within the period referred to in head (b) and where applicable, within the period specified under paragraph 18A for the Department to forward representations to the enforcing authority, the enforcing authority shall—

(aa) give notice of its determination; and

(bb) include in the register a copy of the final determination, together with a statement confirming that no representations have been made on the draft determination,

within the period of 5 working days starting with the day on which the period referred to in head (b) ends or, where applicable, the day on which the period specified under paragraph 18A for the Department to forward representations to the enforcing authority ends; or

(ii) representations are made within the period referred to in head (b) and where applicable, within the period specified under paragraph 18A for the Department to forward representations to the enforcing authority, the enforcing authority shall—

(aa) give notice of its determination;

(bb) include in the register a copy of the final determination, together with information on the reasons and considerations on which the determination is based, including information on the public participation process; and

(cc) advertise the notice on its web site, and if it considers appropriate, by any other means,

within the period of 15 working days starting with the day on which the period referred to in head (b) ends or, where applicable, the day on which the period specified under paragraph 18A for the Department to forward representations to the enforcing authority ends or within such longer period as may be agreed with the applicant.

(2) Where the draft determination has been forwarded to the Department pursuant to paragraph 15A (2)—

(a) the enforcing authority shall forward to the Department a copy of the final determination and the information specified in sub-paragraph 1(c)(i)(bb) or 1(c)(ii)(bb) as the case may be, by the date by which it is required to give notice of its determination under sub-paragraph 1(c)(i) or 1(c)(ii); and

(b) the Department shall forward to the Member State to which the draft determination has been forwarded under paragraph 17, copies of the documents specified in the previous head, as soon as practicable after the date of receipt.";

(h) in paragraph 16—

(i) after the words "its determination" insert the words "or draft determination";

(ii) for the words "the period" substitute the words "the applicable period";

(iii) for the words "paragraph 15" substitute the words "paragraph 15 or paragraph 15B";

(i) in paragraph 17—

(i) for the words from "the Department shall forward a copy" to the words "pursuant to paragraph 5" substitute the following—

"the Department shall forward—

(a) a copy of the application to operate the installation together with a copy of the advertisement made under paragraph 5; and

(b) where applicable, a copy of the draft determination in respect of that application together with a copy of the advertisement made under 15A,

to the other Member State at the same time as the application or draft determination are advertised pursuant to paragraph 5 or 15A";

(ii) for the words from "after the application" to the words "in order that the application" substitute the following—

"after the application or draft determination is advertised but before the application is determined) in order that the application or draft determination";

(j) in paragraph 18—

(i) in sub-paragraph (1)(a) after the word "application" where it first appears insert the words "or provide his draft determination";

(ii) in sub-paragraph (1)(b) after the word "determination" insert the words "or to provide a draft determination";

(k) after paragraph 18, insert the following paragraph—

"**18A.**—(1) Any representations on the draft determination made in the Member State to which the draft determination has been sent, which have been received by the Department within the period of 22 working days from the date of the Department's receipt of the draft determination from the enforcing authority, shall be forwarded to the enforcing authority within the period of 3 working days beginning on the day after that period ends.";

(l) for paragraph 19, substitute the following paragraph—

"**19.**—(1) For the purposes of Parts 1 and 2 of this Schedule—

"new Part A installation" shall be interpreted in accordance with paragraph 6 of Part 1 of Schedule 3; and