STATUTORY RULES OF NORTHERN IRELAND

2004 No. 36

ENVIRONMENT

The Solvent Emissions Regulations (Northern Ireland) 2004

Made - - - -	*6th February 2004*
Coming into operation	*27th February 2004*

The Department of the Environment, in exercise of the powers conferred upon it by Article 4 of the Environment (Northern Ireland) Order 2002(**1**) ("the 2002 Order"), and of all other powers enabling it in that behalf and having, in accordance with Article 4(4) of the 2002 Order, 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 bodies or persons as it considers appropriate, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Solvent Emissions Regulations (Northern Ireland) 2004 and shall come into operation on 27th February 2004.

Interpretation

2.—(1) In these regulations –

"the 1997 Order" means the Industrial Pollution Control (Northern Ireland) Order 1997(**2**);

"the 1998 Regulations" means the Industrial Pollution Control (Prescribed Processes and Substances) Regulations (Northern Ireland) 1998(**3**);

"the 2003 Regulations" means the Pollution Prevention and Control Regulations (Northern Ireland) 2003(**4**);

"authorisation" means an authorisation granted under Article 6 of the 1997 Order;

"risk phrase substance or preparation" means a substance or preparation which, because of their content of volatile organic compounds classified as carcinogens, mutagens, or toxic to reproduction under Directive 67/548/EEC(**5**) are assigned or need to carry the risk phrases

(**1**) S.I. 2002/3153 (N.I. 7); Directive 1999/13/EC was designated for the purposes of paragraph 20(2)(d) of Schedule 1 to the 2002 Order by the Environment (Designation of Relevant Directives) Order (Northern Ireland) 2003 (S.R. 2003 No. 209)
(**2**) S.I. 1997 No. 2777 (N.I. 18)
(**3**) S.R. 1998 No. 28
(**4**) S.R. 2003 No. 46, relevant amending Regulations are S.R. 2003 No. 390 as amended by S.R. 2004 No. 35
(**5**) O.J. No. L196, 16.8.1967, p. 1 as last amended by Commission Directive 98/98/EC (O.J. No. L355, 30.12.1998, p. 1)

R45, R46, R49, R60 and R61 and a substance or preparation "becomes a risk phrase substance or preparation" when, because of its content of volatile organic compounds, it is assigned or needs to carry one of those risk phrases;

(2) Subject to regulation 3(17) in these Regulations, words and expressions which are defined in Regulation 2 of, and Schedule 3 to, the 2003 Regulations shall have the same meaning as in those Regulations.

Application for variation of the conditions of an existing authorisation or permit in relation to installations covered by the Solvent Emissions Directive

3.—(1) Where –

(a) an installation contains –

(i) a new SED installation; or

(ii) an existing SED installation which underwent a substantial change in operation, installed abatement equipment or on or after 1st April 2001 and before the coming into operation of these Regulations; or

(iii) an existing SED installation which began using a risk phrase substance before the coming into operation of these Regulations; and

(b) the affected part of the SED installation is on the date of coming into operation of these Regulations subject to a permit,

the operator of the installation shall within the period of 4 months beginning on the date of coming into operation of these Regulations make an application under regulation 17 of the 2003 Regulations for a variation of the conditions of that permit.

(2) Where –

(a) abatement equipment was installed in an existing SED installation on or after 1st April 2001 and before the coming into operation of these Regulations;

(b) the activities carried out in the affected part of the SED installation fall wholly within the description of processes set out in Schedule 1 of the 1998 Regulations under the heading "Part A, Part B or Part C"; and

(c) that part of the SED installation is at the date of coming into operation of these Regulations wholly covered by an authorisation,

the operator shall within the period of 4 months beginning on the date of coming into operation of these Regulations either make an application under Article 11 of the 1997 Order for a variation of the conditions of the authorisation, or, in the case of an SED installation falling wholly within any description of processes set out in Schedule 1 to the 1998 Regulations under the heading "Part A", make an application for a permit to operate the whole installation under regulation 10 of the 2003 Regulations.

(3) Where –

(a) an installation contains an existing SED installation at which a risk phrase substance or preparation began to be used before the coming into operation of these Regulations;

(b) the activities carried out in the affected part of the SED installation fall wholly within the description of processes set out in Schedule 1 of the 1998 Regulations under the heading "Part A, Part B or Part C"; and

(c) the SED installation or part of the SED installation in which the substance or preparation is used is subject to an authorisation,

the operator shall within a period of 4 months beginning on the date of coming into operation of these Regulations make an application under Article 11 of the 1997 Order for a variation of the conditions

of the authorisation or, in the case of an SED installation falling wholly within any description of processes set out in Schedule 1 to the 1998 Regulations under the heading "Part A", make an application for a permit to operate the whole installation under regulation 10 of the 2003 Regulations.

(4) Where –

(a) an existing SED installation underwent a substantial change on or after 1 April 2001 and before the coming into operation of these Regulations;

(b) the activities carried out in the affected part of the SED installation fall wholly within the description of processes set out in Schedule 1 of the 1998 Regulations under the heading "Part A, Part B or Part C"; and

(c) that part of the installations is wholly covered by an authorisation,

the operator shall within the period of 4 months beginning on the date of coming into operation of these Regulations make an application under Article 11 of the 1997 Order for a variation of the conditions of the authorisation or, in the case of an SED installation falling wholly within any description of processes set out in Schedule 1 to the 1998 Regulations under the heading "Part A", make an application for a permit to operate the whole installation under regulation 10 of the 2003 Regulations.

(5) Subject to paragraph (1), where an installation which contains an existing SED installation is subject to a permit, the operator of the installation shall by the SED date make an application under regulation 17 of the 2003 Regulations for a variation of the conditions of that permit.

(6) Subject to paragraphs (2), (3) and (4) where the activities carried out by an existing SED installation –

(a) fall wholly within any description set out in Schedule 1 to the 1998 Regulations under the heading "Part A, Part B or Part C"; and

(b) and are wholly covered by an authorisation,

the operator shall by the SED date make an application under Article 11 of the 1997 Order for a variation of the conditions of the authorisation or make an application for a permit to operate the whole installation under regulation 10 of the 2003 Regulations or, in the case of an SED installation falling wholly within any description of processes set out in Schedule 1 to the 1998 Regulations under the heading "Part A", make an application for a permit to operate the whole installation under regulation 10 of the 2003 Regulations.

(7) Paragraphs (1) to (6) do not apply if the permit or authorisation already includes all conditions necessary to meet the requirements of the Solvent Emissions Directive.

(8) Where –

(a) an operator of an installation containing an existing SED installation proposes to make a substantial change in the operation of that SED installation or to install abatement equipment; and

(b) the affected part of the SED installation is subject to a permit,

the operator shall make an application under regulation 17 of the 2003 Regulations for a variation of the conditions of the permit and may not make the substantial change in operation or install the abatement equipment before the positive determination date.

(9) Where –

(a) an operator of an installation containing an existing SED installation proposes to make a substantial change in the operation of that SED installation or to install abatement equipment;

(b) the activities carried out in the affected part of the SED installation fall wholly within any description of processes set out in Schedule 1 to the 1998 Regulations under the heading "Part A, Part B or part C"; and

(c) the affected part of the SED installation is wholly covered by an authorisation,

the operator shall either make an application under Article 11 of the 1997 Order for a variation of the conditions of the authorisation, or in the case of an SED installation falling wholly within any description of processes set out in Schedule 1 to the 1998 Regulations under the heading "Part A", make an application for a permit to operate the whole installation under regulation 10 of the 2003 Regulations and may not make the substantial change or install the abatement equipment before the positive determination date.

(10) Where –

(a) an operator of an installation containing an existing SED installation proposes to start using a risk phrase substance or preparation, and

(b) the SED installation or part of the SED installation in which it is proposed to use the risk phrase substance or preparation is subject to a permit or an authorisation;

the operator shall make an application under regulation 17 of the 2003 Regulations for a variation of the conditions of the permit or an application under Article 11 of the 1997 Order for a variation of the conditions of the authorisation and the operator may not begin using the substance or preparation before the positive determination date.

(11) Where after the coming into operation of these Regulations –

(a) a substance or preparation used in an SED installation becomes a risk phrase substance or preparation, and

(b) the SED installation or part of the SED installation in which the substance or preparation is used is subject to an authorisation or permit;

the operator shall within 4 months of the date on which the risk phrase is assigned to that substance or preparation make an application under Article 11 of the 1997 Order for a variation of the conditions of the authorisation or an application under regulation 17 of the 2003 Regulations for a variation of the conditions of the permit.

(12) Paragraphs (1) and (8) shall not apply to an installation containing an SED installation which undergoes a substantial change in operation where the total emissions of the SED installation do not exceed those that would have been permitted had the substantially changed part of the SED installation been subject to a permit containing conditions necessary to ensure that the SED installation complied with the requirements of Articles 5, 8 and 9 of the Solvent Emissions Directive.

(13) An application under this regulation shall contain the information specified in paragraph 1B of Part 1 of Schedule 4 to the 2003 Regulations.

(14) Where an operator fails to comply with any of the requirements of this regulation, the enforcing authority shall serve a notice on the operator specifying the relevant requirement, requiring him to comply with the requirement and specifying the period within which it shall be complied with.

(15) A notice served under paragraph (14) shall be treated for the purposes of the 2003 Regulations as an enforcement notice served under regulation 24(1) of the 2003 Regulations and the provisions of those Regulations shall be deemed to apply to such a notice.

(16) For the purposes of this regulation –

"affected part" means that part of an SED installation which undergoes a substantial change in operation or in which abatement equipment is installed or in which a risk phrase substance or preparation is used;

"positive determination date" means –

(a) in relation to an application for a variation of a permit, the date on which the permit is varied, whether in pursuance of an application for a variation or, on appeal, of a direction to vary it;

(b) in relation to an application for a variation of an authorisation, the date on which the authorisation is varied, whether in pursuance of an application for a variation or, on appeal, of a direction to vary it, or

(c) in relation to an application for a permit, the date on which the permit is granted, whether in pursuance of an application or, on appeal, of a direction to grant it;

"the SED date" means –

(a) in relation to an existing SED installation for which the operator wishes to use a reduction scheme, 31st October 2005;

(b) in relation to all other existing SED installations, 31st October 2006.

Application for an extension of an existing permit in relation to installations covered by the Solvent Emissions Directive

4.—(1) Where the prescribed dates for an installation, which is already in part subject to a permit, are determined in accordance with paragraph 19(5) of Part 4 of Schedule 3 to the 2003 Regulations (determination of the prescribed date for an SED installation carrying out activities which are only partly also activities falling within sections 1.1 to 6.9 of Part 1 of Schedule 1 and associated activities) and the prescribed date for part of the SED installation has not yet passed, the operator may make an application to extend the scope of the permit to incorporate the whole of the SED installation.

(2) Subject to paragraph (3), the provisions of paragraph 17 of, and Schedule 7 to, the 2003 Regulations shall apply to an application under paragraph (1) as if it were an application for a variation of a permit under regulation 17(2) of the 2003 Regulations.

(3) In relation to an application under paragraph (1) –

(a) regulation 17 shall apply as if –

(i) for paragraph (4) there were substituted the following paragraph –

"(4) Where an application is duly made to the enforcing authority under regulation 4(1) of the Solvent Emissions Regulations (Northern Ireland) 2004, the enforcing authority shall either extend the scope of the permit subject to the conditions required or authorised to be imposed by regulations 11, 12 and 12A or refuse to extend the permit.".

(ii) for paragraph (5) there were substituted the following paragraph –

"(5) Where the enforcing authority decides to extend the scope of the permit, it shall serve a notice on the operator (a "variation notice") specifying how the permit will be extended, the conditions which will be imposed on the part of the installation covered by the extension and the date on which, unless the notice is withdrawn, the extension shall take effect.".

(iii) for paragraph (7) there were substituted the following paragraph –

(7) Where the enforcing authority decides on an application under regulation 4(1) of the Solvent Emissions Regulations (Northern Ireland) 2004 not to extend the permit, it shall give notice of its decision to the operator in writing.";

(b) Schedule 7 shall apply as if –

(i) in paragraph 1(e) of Part 1 after "conditions of the permit" there were inserted "and the extension of the scope of the permit";

(ii) at the end of paragraph 1 there were inserted a new sub-paragraph (h) as follows –

"(h) in the case of an application for a variation to extend the scope of the permit in respect of an SED installation the information specified in paragraph 1B of Part 1 of Schedule 4.".