STATUTORY RULES OF NORTHERN IRELAND

2003 No. 390

ENVIRONMENTAL PROTECTION

The Waste Incineration Regulations (Northern Ireland) 2003

Made - - - -	*29th August 2003*
Coming into operation	*22nd September 2003*

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

Citation and commencement

1. These Regulations may be cited as the Waste Incineration Regulations (Northern Ireland) 2003 and shall come into operation on 22nd September 2003.

Interpretation

2.—(1) In these Regulations –

"the 1978 Order" means the Pollution Control and Local Government (Northern Ireland) Order 1978(**2**);

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

"the Directive" means Directive 2000/76/EC on the Incineration of Waste(**5**);

(**1**) S.I.2002/3153 (N.I. 7)
(**2**) S.I. 1978/1049 (N.I. 19)
(**3**) S.I. 1997/2777 (N.I. 18)
(**4**) S.R. 2003 No. 46
(**5**) O.J. No. L332, 28.12.2000, p. 91

"disposal licence" means a disposal licence granted under Article 7 of the Pollution Control and Local Government (Northern Ireland) Order 1978(**6**);

"existing waste incineration installation" means a waste incineration installation which –

(a) in the case of an installation which is a co-incineration plant, is put into operation before 28th December 2004 subject to a relevant approval; or

(b) in any other case –

(i) is put into operation before 28th December 2003 subject to a relevant approval granted before 28th December 2002; or

(ii) is put into operation before 28th December 2004, subject to a relevant approval granted on the basis of a duly made application submitted before 28th December 2002,

and where an installation becomes authorised as a waste incineration installation for the first time as a result of a modification notice pursuant to Article 9 of the 1978 Order, or a variation notice pursuant to Article 10 or 11 of the 1997 Order or regulation 17 of the 2003 Regulations, references in this definition to a relevant approval shall be construed as references to that modification or variation and not to the original relevant approval, and references to the grant of an approval shall be construed as references to the service of the notice effecting the modification or variation;

"permit" means a permit granted under regulation 10 of the 2003 Regulations;

"planning permission" means planning permission granted under the Planning (Northern Ireland) Order 1991(**7**); and

"relevant approval" means any of the following –

(a) an authorisation;

(b) a disposal licence;

(c) a permit; or

(d) planning permission.

(2) Words and expressions, which are defined in the 2003 Regulations and used in these Regulations, shall have the same meaning as in the 2003 Regulations.

Application in relation to waste incineration installations

3.—(1) Subject to paragraph (7), where an existing waste incineration installation is subject on 31st December 2004 to a permit, the operator shall within the period 1st to 28th February 2005 make an application under regulation 17 of the 2003 Regulations for a variation of the conditions of that permit.

(2) Subject to paragraph (7), where an existing waste incineration installation (not being one falling within section 5.1 of Part 1 of Schedule 1 of the 2003 Regulations), is subject on 31st December 2004 to an authorisation, the operator shall within the period 1st to 28th February 2005 either –

(a) apply under Article 11 of the 1997 Order for a variation of the conditions of the authorisation; or

(b) make an application for a permit under regulation 10 of the 2003 Regulations.

(3) An application under paragraph (1) or (2) shall contain the information specified in paragraph 1A of Part 1 of Schedule 4 of the 2003 Regulations.

(**6**) S.I. 1978/1049 (N.I. 19)
(**7**) S.I. 1991/1220 (N.I. 11)

(4) Subject to paragraph (7), where a waste incineration installation would have fallen within paragraph (a), (b)(i) or (b)(ii) of the definition of existing waste incineration installation in regulation 2 had it been put into operation before the date specified in the applicable paragraph, it shall not thereafter be put into operation unless –

(a) in the case of an installation which is already subject to a permit, the permit is varied pursuant to an application under regulation 17 of the 2003 Regulations; or

(b) in any other case, a permit is granted in relation to the installation.

(5) Where an operator fails to comply with a requirement of this regulation the Chief Inspector shall serve a notice on the operator specifying the period within which he must comply with that requirement.

(6) A notice served under paragraph (5) shall be treated as an enforcement notice served under regulation 24(1) of the 2003 Regulations.

(7) Paragraphs (1), (2) and (4) shall not apply where an operator holds a relevant approval, which contains conditions requiring the operator to meet the requirements of the Directive.

Transitional provisions

4. Part 1 of Schedule 3 to the 2003 Regulations shall apply in relation to any installation or mobile plant which by virtue of these Regulations becomes a Part A installation or Part A mobile plant (but which would otherwise not have been an installation or mobile plant or would have been a Part B or Part C installation or Part B or Part C mobile plant) as if –

(a) in paragraph 4 sub-paragraph (1) were omitted; and

(b) in paragraph 6 –

(i) for the definition of "existing" there were substituted –

""existing" means, in relation to a Part A installation or a Part A mobile plant –

(a) an installation or mobile plant which is put into operation pursuant to a relevant authorisation granted where required, before 28th December 2002; or

(b) an installation or mobile plant, which is put into operation on or after that date if –

(i) its operation was authorised by a relevant authorisation before that date; or

(ii) an application for such authorisation was duly made before that date";"

(ii) in the definition of "new" for "31st October 1999" there were substituted "28th December 2002"; and

(iii) in the definition of "relevant authorisation" for "31st October 1999" (in both places where it occurs) there were substituted "28th December 2002".

Amendments to the 2003 Regulations

5.—(1) The 2003 Regulations have effect subject to the following amendments.

(2) In regulation 2 (interpretation: general) –

(a) in paragraph (2) after the definition of "variation notice" insert –

""waste incineration installation" means that part of an installation or mobile plant in which any of the following activities is carried out –

(i) the incineration of waste falling within section 5.1 A(a), (b), (c), (d) or (e) of Part 1 of Schedule 1; or

(ii) any activity falling within any section of that Part of that Schedule which is carried out in a co-incineration plant as defined in section 5.1 of that Part of that Schedule"; and

(b) after paragraph (2) insert –

"(2A) For the purposes of these Regulations a change in the operation of a waste incineration installation which involves incineration or co-incineration of waste for the first time of hazardous waste shall be treated as a substantial change in operation, and for the purposes of this paragraph "co-incineration" and "hazardous waste" shall have the meanings given in section 5.1 of Part 1 of Schedule 1."

(3) In regulation 19 (application to surrender a permit for a Part A installation or Part A mobile plant) –

(a) in paragraph (1), delete "This regulation" and substitute "Subject to paragraph (1A) this regulation"; and

(b) after paragraph (1) insert –

"(1A) This regulation does not apply in relation to that part of any installation or mobile plant where an activity falling within section 5.1A(d) or (e) of Part 1 of Schedule 1 is carried out."

(4) In regulation 20 (Notification of surrender of a permit for a Part B or Part C installation or Part B or Part C mobile plant) insert –

"(1A) This regulation also applies in relation to that part of any installation or mobile plant where an activity falling within Section 5.1A(d) or (e) of Part 1 of Schedule 1 is carried out."

(5) In Part 1 of Schedule 1 (Activities, Installations and Mobile Plant)

(a) delete section 5.1 and substitute –

"SECTION 5.1

INCINERATION AND CO-INCINERATION OF WASTE

Part A

(a) The incineration of hazardous waste in an incineration plant.

(b) Unless carried out as part of any other Part A activity, the incineration of hazardous waste in a co-incineration plant.

(c) The incineration of non-hazardous waste in an incineration plant with a capacity of 1 tonne or more per hour.

(d) The incineration of non-hazardous waste in an incineration plant with a capacity of less than 1 tonne per hour.

(e) Unless carried out as part of any other Part A activity, the incineration of non-hazardous waste in a co-incineration plant.

(f) Unless carried out as part of any other activity in this Part, the incineration of hazardous waste in a plant which is not an incineration plant or a co-incineration plant.