1995 No. 296

HEALTH AND SAFETY

Mines and Quarries (Tips and Tipping Plans) Regulations (Northern Ireland) 1995

Made . . . . . *24th July 1995*

Coming into operation . . *1st September 1995*

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The Department of Economic Development, being the Department concerned(**a**), in exercise of the powers conferred on it by Articles 17(1) to (5) and 55(2) of, and paragraphs 1(1)(*c*), 5(1), 13, 14(1), 15, 17(*a*), 19 and 20 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**b**) and of every other power enabling it in that behalf, after consultation

(**a**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**b**) S.I. 1978/1039 (N.I. 9)

in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to the Department to be appropriate, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Mines and Quarries (Tips and Tipping Plans) Regulations (Northern Ireland) 1995 and shall come into operation on 1st September 1995.

Interpretation

2.—(1) In these Regulations—

"the 1969 Act" means the Mines Act (Northern Ireland) 1969(**a**);

"the 1970 Rules" means the Mines (References) Rules (Northern Ireland) 1970(**b**);

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978;

"the 1983 Order" means the Quarries (Northern Ireland) Order 1983(**c**);

"active tip", "closed tip" and "tip" have the meanings assigned in relation to—

(*a*) a mine, by section 128(3) of the 1969 Act;

(*b*) a quarry, by Article 9(4) of the 1983 Order,

and "active classified tip" and "closed classified tip" shall be construed accordingly;

"classified tip" means an active or closed tip of any of the following classes—

(*a*) a tip consisting of refuse accumulated or deposited wholly or mainly in a solid state and not in solution or suspension and where—

(i) the superficial area of the land covered by the refuse exceeds 10,000 square metres;

(ii) the height of the tip exceeds 15 metres; or

(iii) the average gradient of the land covered by the refuse exceeds 1 in 12;

(*b*) a tip consisting of refuse accumulated or deposited wholly or mainly in solution or suspension and where—

(**a**) 1969 c. 6 (N.I.)
(**b**) S.R. & O. (N.I.) 1970 No. 124
(**c**) S.I. 1983/150 (N.I. 4)

(i) any part of the tip (other than any wall or other structure retaining or confining it but including any liquid in it) is more than 4 metres above the level of any part of the neighbouring land within 50 metres of the perimeter of the tip; or

(ii) the volume of the tip (other than any wall or other structure retaining or confining it but including any liquid in it) exceeds 10,000 cubic metres,

and in determining whether refuse has been accumulated or deposited wholly or mainly in a solid state or wholly or mainly in solution or suspension any wall or other structure retaining or confining the tip shall be excluded;

"dangerous occurrence" in relation to a tip means any occurrence in which any movement of material or any fire or any other event indicates that the tip is, or is likely to become, insecure;

"the Department" means the Department of Economic Development;

"height" in relation to a tip means the vertical distance between the horizontal planes passing through the lowest and highest points of the tip;

"owner" in relation to a quarry means the occupier where the person who for the time being is in actual use and occupation of the quarry, or any part of it, for the purpose of getting minerals from it, is other than the owner;

"the person having responsibility for a tip" means—

(*a*) in the case of an active or closed tip which is associated with a quarry, the owner of the quarry;

(*b*) in the case of an active tip which is associated with a mine, the manager of the mine; and

(*c*) in the case of a closed tip which is associated with a mine, the owner of the mine;

"tipping operations" means the depositing of refuse from a mine or quarry and the carrying out of any operations necessary for, or incidental to, the depositing of the refuse;

"tipping rules" means rules made in accordance with regulation 10(1);

"watercourse" includes all rivers, streams, ditches, drains, sewers, culverts, cuts, dykes, sluices and passages, through which water flows.

(2) For the purposes of these Regulations the mine or quarry with which a tip is associated shall be determined as follows—

(*a*) in the case of a tip on premises which are deemed to form part of a mine or quarry for the purposes of the 1969 Act or, as the case may be, the 1983 Order the tip is associated with that mine or quarry;

(*b*) in the case of a tip not falling within sub-paragraph (*a*) but on premises which, at any time after the commencement of the 1969 Act or the 1983 Order, were deemed to form part of a mine or quarry respectively for the purposes of that Act or Order, the tip is associated with that

mine or quarry (or, as the case may be, the last such mine or quarry); and

(*c*) in any other case, the tip is associated with the mine or quarry from which refuse was deposited on the tip, or, in the case of a tip which was used for the deposit of refuse from two or more mines or quarries, such one of those mines or quarries as the Department may direct.

(3) Expressions to which meanings are assigned by the 1969 Act in relation to mines and the 1983 Order in relation to quarries shall have the same meanings in these Regulations and in any document issued under these Regulations.

PART II

GENERAL PROVISIONS RELATING TO TIPS

Security of tips

3. Every active and closed tip shall be made and kept secure.

Information relating to tips

4.—(1) It shall be the duty of the owner and of the manager of every mine and of the owner and of the agent of every quarry to take such steps as may be necessary for securing that he is at all material times in possession of all information relevant for determining the nature and extent of any steps which it is requisite for him to take in order to discharge efficiently the duties imposed on him by these Regulations.

(2) The manager of a mine as such shall not be guilty of an offence by virtue of section 130(1) of the 1969 Act, and the agent of a quarry as such shall not be guilty of an offence by virtue of Article 20(2) of the 1983 Order (which provide among other things that they may be guilty of an offence where some other person contravenes a particular statutory provision) by reason of a contravention, in relation to a closed tip which is associated with the mine or quarry, of—

(*a*) any provision of the 1969 Act, the 1983 Order, any statutory provision made under that Act or Order or these Regulations;

(*b*) a direction, prohibition, restriction or requirement given or imposed by a notice served under the 1969 Act, the 1983 Order or these Regulations by the Department or an inspector; or

(*c*) a condition attached to an exemption, consent, approval or authority granted or given under the 1969 Act, the 1983 Order or these Regulations by the Department or an inspector.

(3) In paragraph (2), the expression "manager", in relation to a mine, includes an under-manager of the mine and any person who is for the time being treated for the purposes of the 1969 Act as the manager or an under-manager of the mine.

(4) For the purpose of determining whether an active or closed tip is, or is likely to become, insecure the Department may require the owner of the