STATUTORY RULES OF NORTHERN IRELAND

2016 No. 95

ENVIRONMENTAL PROTECTION

The Waste (Amendment) Regulations (Northern Ireland) 2016

Made - - - -	*2nd March 2016*
Coming into operation	*15th July 2016*

The Department of the Environment, being 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 caused by waste and in relation to the environment.

The Department of the Environment acting in exercise of the powers conferred upon it by that section and by section 74 of the Marine and Coastal Access Act 2009(**3**), having had regard to the matters mentioned in section 74(4) and having carried out consultation in accordance with section 74(5) of that Act, makes these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Waste (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 15th July 2016.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to the Regulations as it applies to an Act of the Assembly.

(3) In these Regulations—

"Commission Directive (EU) 2015/1127" means Commission Directive (EU) 2015/1127 of 10th July 2015 amending Annex II to Directive 2008/98EC of the European Parliament of the Council on waste and repealing certain Directives(**5**).

Amendment to the Waste and Contaminated Land (Northern Ireland) Order 1997

2.—(1) The Waste and Contaminated Land (Northern Ireland) Order 1997(**6**) is amended in accordance with paragraph (2)—

(**1**) S.I. 2008/301 and S.I. 1992/2870
(**2**) 1972 c.68
(**3**) 2009 c.23 By virtue of section 113(6) of the Marine and Coastal Access Act 2009, the Department of the Environment is the appropriate licensing authority. See section 322(1) for a definition of this region and section 66 for list of licensable marine activities. Functions not licensed under this legislation include fisheries, oil and gas.
(**4**) 1954 c.33 (NI)
(**5**) OJNo. L 184/13, 11.7.2015
(**6**) 1997 No. 2778 (N.I. 19) as amended

(2) In Article 2 (general interpretation) in paragraph (2) insert the following definitions in the appropriate alphabetical order—

""Commission Directive (EU) 2015/1127" means Commission Directive (EU) 2015/1127 of 10th July 2015 amending Annex II to Directive 2008/98/EC on waste and repealing certain Directives;

"recovery" means any operation the principal result of which is the waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy;".

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

3.—(1) The Waste Management Licensing Regulations (Northern Ireland) 2003(**7**) are amended in accordance with paragraphs (2) and (3)—

(2) In regulation 1(3) (Citation, commencement and interpretation)—

(a) Insert the following definition in the appropriate alphabetical order—

""Commission Directive (EU) 2015/1127" means Commission Directive (EU) 2015/1127 of 10th July 2015 amending Annex II to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives;".

(b) For the definition of "recovery" substitute—

""recovery"—

(a) in relation to WEEE has the meaning given by Article 30(f) of the WEEE Directive;

(b) in relation to any other type of waste, means any operation the principal result of which is the waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. Annex II to the Directive, as amended by Commission Directive (EU) 2015/1127, sets out a non-exhaustive list of recovery operations;".

(3) In Schedule 3 Part III in the table in column 2 for the description of R1 substitute—

"Use principally as a fuel or other means to generate energy. This includes incineration facilities dedicated to the processing of municipal solid waste only where their energy efficiency is equal to or greater than (i) 0.60 for installations in operation and permitted in accordance with applicable Community legislation before 1st January 2009; or (ii) 0.65for other installations. Energy efficiency is calculated according to the formula contained in Annex II of the Waste Framework Directive as amended by the Commission Directive (EU) 2015/1127.".

Amendment of the Hazardous Waste Regulations (Northern Ireland) 2005

4.—(1) The Hazardous Waste Regulations (Northern Ireland) 2005(**8**) are amended in accordance with paragraphs (2) to (5)—

(2) In regulation 2 (General interpretation) at paragraph (1)—

(a) For the definition of "recovery" substitute—

(**7**) S.R. 2003 No. 493 as amended
(**8**) S.R. 2005 No. 300

""recovery" means any operation the principal result of which is the waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared for that function, in the plant or in the wider economy. Annex II to the Directive, as amended by Commission Directive (EU) 2015/1127, sets out a non-exhaustive list of recovery operations;".

(b) Insert the following definition in the appropriate alphabetical order—

""Commission Directive (EU) 2015/1127" means Commission Directive (EU) 2015/1127 of 10th July 2015 amending Annex II to Directive 2008/98/EC of the European Parliament and the Council on waste and repealing certain Directives;".

(3) In regulation 24(2)(c) for Annex I of Directive 2008/98/EC of the European Parliament and of the Council, or storage of waste consisting materials intended for submission to any operation listed in Annex II of that Directive," substitute "Annex I of Directive 2008/98/EC of the European Parliament and of the Council, or storage of waste consisting of materials intended for submission to any operation listed in Annex II of that Directive as amended by Commission Directive (EU) 2015/1127.".

(4) In regulation 37(6) after "Annex I or II" add "as amended by Commission Directive (EU) 2015/1127".

(5) In regulation 40(3)(c) after "Annex I or II of the Waste Directive (as the case may be)" add "as amended by Commission Directive (EU) 2015/1127".

Amendment of the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007

5.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007(**9**) are amended in accordance with paragraphs (2) and (3)—

(2) In regulation 2 (interpretation and notices) in paragraph (1)—

(a) For the definition of "the Waste Directive" substitute—

""the Waste Directive" means Directive 2008/98/EC of the European Parliament and of the Council on waste, as amended by Commission Directive (EU) 2015/1127;".

(b) Insert in the appropriate alphabetical order—

""Commission Directive (EU) 2015/1127" means Commission Directive (EU) 2015/1127 of 10th July 2015 amending Annex II to Directive 2008/98/EC of the European Parliament and the Council on waste and repealing certain Directives;".

(3) In regulation 2 paragraph (2) for the definition of "recovery" substitute—

""recovery" means any operation the principal result of which is the waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared for that function, in the plant or in the wider economy. Annex II to the Directive, as amended by Commission Directive (EU) 2015/1127, sets out a non-exhaustive list of recovery operations;".

Amendment of the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011

6.—(1) The Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011(**10**) are amended in accordance with paragraphs (2) and (3)—

(**9**) S.R. 2007 No. 198
(**10**) S.R. 2011 No. 78