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STATUTORY RULES OF NORTHERN IRELAND

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**2012 No. 453**

**The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012**

**PART 2**  
**PERMITS**

**Permits: requirement for a permit**

**9.**—(1) No person shall operate an installation or mobile plant after the prescribed date except under and to the extent authorised by a permit granted by the enforcing authority.

(2) In paragraph (1), the “prescribed date” means the appropriate date set out in or determined in accordance with Schedule 3.

**Permits: general provisions**

**10.**—(1) An application for a permit to operate an installation or mobile plant shall be made to the enforcing authority in accordance with Part 1 of Schedule 4 and shall be accompanied by any fee prescribed in respect of the application under regulation 25.

(2) Subject to paragraphs (3) and (4), where an application is duly made to the enforcing authority, the enforcing authority shall either grant the permit, subject to any conditions which may be imposed pursuant to regulations 11, 12, 13, 14 or 15 of these Regulations, and regulation 8 of the 2003 Landfill Regulations, or refuse the permit.

(3) A permit shall not be granted if the enforcing authority considers that the applicant will not be the person who will have control over the operation of the installation or mobile plant concerned after the grant of the permit, or will not ensure that the installation or mobile plant is operated so as to comply with any conditions which would be included in the permit.

(4) In the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation or by means of mobile plant, the permit shall not be granted unless—

- (a) the chief inspector is satisfied that the applicant is a fit and proper person to carry out that activity; and
- (b) in the case of an installation where the use of the application site for the carrying out of the activity requires planning permission granted under the Planning (Northern Ireland) Order 1991—
  - (i) such planning permission is in force in relation to the use of the land; or
  - (ii) a certificate under Article 83A of that Order has been issued in respect of that use of the land.

(5) A permit may authorise the operation of—

- (a) more than one Part A installation or Part A mobile plant on the same site operated by the same operator;
- (b) more than one Part B installation on the same site operated by the same operator;
- (c) more than one Part B mobile plant operated by the same operator;
- (d) more than one Part C installation on the same site operated by the same operator; or
- (e) more than one Part C mobile plant operated by the same operator,

but may not otherwise authorise the operation of more than one installation or mobile plant.

(6) A permit authorising the operation of a Part A mobile plant may only authorise the operation of that plant on a site specified in the permit and only one site may be specified in each such permit (accordingly, the operation of the plant on a different site shall require a distinct permit).

(7) A permit authorising the operation of an installation or Part A mobile plant shall include a map or plan showing the site of the installation or mobile plant covered by the permit and, in the case of an installation, the location of the installation on that site.

(8) A permit shall be transferred only in accordance with regulation 20 or 21 and shall cease to have effect only in accordance with regulation 21, 22, 23, 24 or paragraph (9).

(9) Where—

- (a) the conditions of a permit have been varied under regulation 19 or affected by a partial transfer, surrender or revocation under regulations 20 to 24; or
- (b) there is more than one permit applying to installations on the same site operated by the same operator or to mobile plant operated by the same operator,

the enforcing authority may replace the permit or permits with a consolidated permit applying to the same installations or mobile plant and subject to the same conditions as the permit or permits being replaced.

(10) Parts 1 and 2 of Schedule 4 shall have effect subject to Part 3 of that Schedule.

### **Conditions of permits: general principles**

**11.**—(1) When determining the conditions of a permit, the enforcing authority shall take account of the general principles set out in paragraph (2) and, in the case of a permit authorising the operation of a Part A installation or Part A mobile plant, the additional general principles set out in paragraph (3).

(2) The general principles referred to in paragraph (1) are that installations and mobile plant must be operated in such a way that—

- (a) all the appropriate preventative measures are taken against pollution, in particular through the application of BAT; and
- (b) no significant pollution is caused.

(3) The additional general principles referred to in paragraph (1) in relation to a permit authorising the operation of a Part A installation or a Part A mobile plant are that the installation or mobile plant must be operated in such a way that—

- (a) BAT conclusions shall be the reference for setting permit conditions;
- (b) waste production is avoided in accordance with Directive [2008/98/EC](#) of the European Parliament and of the Council on waste; and, where waste is produced, it is in order of priority and in accordance with Directive [2008/98/EC](#), prepared for re-use, recycled, recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any adverse impact on the environment;
- (c) energy is used efficiently;

- (d) the necessary measures are taken to prevent accidents and limit their consequences; and
- (e) upon the definitive cessation of activities, the necessary assessments and measures are taken to avoid any pollution risk and to return the site of the installation or mobile plant to a satisfactory state.

(4) The Department may establish rules under which the chief inspector may set stricter permit conditions than those achievable by the use of BAT as described in the BAT conclusions (in addition to the circumstances described in regulation 12(4)).

(5) Where the chief inspector sets permit conditions on the basis of a BAT, not described in any of the relevant BAT conclusions, the chief inspector shall ensure that—

- (a) that technique is determined by giving special consideration to the criteria listed in Schedule 2; and
- (b) the requirements of regulations 12(3) and 13(2) to (4) are complied with.

(6) Where the relevant BAT conclusions do not contain emission levels associated with the BAT, the chief inspector shall ensure that the technique referred to in paragraph (5) ensures a level of environmental protection equivalent to the BAT described in the BAT conclusions.

(7) Where an activity or a type of production process carried out within an installation is not covered by any BAT conclusions, or where those conclusions do not address all the potential environmental effects of the activity or process, the chief inspector shall, after prior consultations with the operator, set the permit conditions on the basis of the BAT that he has determined for the activities or processes concerned, by giving special consideration to the criteria listed in Schedule 2.

(8) The monitoring requirements referred to in regulation 13(6)(e) and (f) shall, where applicable, be based on the conclusions on monitoring as described in the BAT conclusions.

### **Conditions of permits: specific conditions for all installations and mobile plant**

**12.—**(1) Subject to paragraphs (11) and (12) and regulations 15 and 16, there shall be included in all permits such conditions as the enforcing authority considers appropriate to ensure compliance with paragraphs (2) to (7).

(2) Subject to paragraph (6), a permit shall include emission limit values for pollutants, in particular those listed in Schedule 5, likely to be emitted from the installation or mobile plant in significant quantities, having regard to their nature and, in the case of emissions from a Part A installation or a Part A mobile plant, their potential to transfer pollution from one environmental medium to another.

(3) The emission limit values required by paragraph (2)—

- (a) may, where appropriate, apply to groups of pollutants rather than to individual pollutants; and
- (b) shall normally apply at the point at which the emissions leave the installation or mobile plant, any dilution being disregarded when determining those values.

(4) Where an environmental quality standard requires stricter emission limit values than those that would be required from the application of BAT, the enforcing authority shall require that those stricter emission limit values are imposed.

(5) The emission limit values required by paragraph (2) may, where appropriate, be supplemented or replaced by equivalent parameters or technical measures ensuring an equivalent level of environmental protection.

(6) Where emissions of a pollutant from an installation are the subject of conditions imposed pursuant to regulation 10(2) and (3) of the Greenhouse Gas Emissions Trading Scheme Regulations

2005(1) the permit shall not include an emission limit value, equivalent parameter or technical measure for those emissions unless the enforcing authority considers that the value, parameter or measure is necessary to ensure that no significant local pollution is caused.

(7) For activities listed in Annex I to Directive 2003/87/EC(2), the competent authority may choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.

(8) Paragraphs (6) and (7) shall not apply where the relevant installation is an excluded installation for the purposes of regulation 11 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005.

(9) Subject to paragraph (10), there is implied in every permit a condition that, in operating the installation or mobile plant, the operator shall use BAT for preventing or, where that is not practicable, reducing emissions from the installation or mobile plant.

(10) The obligation implied by virtue of paragraph (9) shall not apply in relation to any aspect of the operation of the installation or mobile plant in question which is regulated by a condition imposed under any other paragraph of this regulation.

(11) A permit may, without prejudice to the generality of the previous provisions of this regulation, include conditions—

- (a) imposing limits on the amount or composition of any substance produced or utilised during the operation of the installation or mobile plant in any period;
- (b) which are supplemental or incidental to other conditions contained in the permit.

(12) The Department may give directions to enforcing authorities—

- (a) as to the specific conditions which are, or are not, to be included in all permits, in permits of a specified description or in any particular permit;
- (b) as to the objectives which are to be achieved by conditions included in such permits,

and the enforcing authorities shall include in such permits such conditions as are specified or required to comply with such directions.

(13) The enforcing authority may rely on arrangements referred to in, and sanctioned by, guidance issued by the Department under regulation 41 to secure a particular result, as an alternative to including a condition in the permit pursuant to this regulation or regulation 8 (conditions to be included in landfill permits) of the 2003 Landfill Regulations.

### **Conditions of permits: specific conditions for Part A installations and Part A mobile plant**

**13.—**(1) The chief inspector shall include in all permits authorising any Part A installation or Part A mobile plant such other conditions as appear to the chief inspector to be appropriate, when taken together with the condition implied by regulation 12(8), for the purpose of ensuring a high level of protection for the environment as a whole, taking into account, in particular, the general principles set out in regulation 11.

(2) Without prejudice to regulation 12(4), the emission limit values referred to in regulation 12(2) and the equivalent parameters and technical measures referred to in regulation 12(5) shall be based on BAT, without prescribing the use of any technique or specific technology. When setting the emission limit values the chief inspector—

- (a) shall ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with BAT as laid down in the BAT conclusions through either—

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(1) [S.I. 2005/925](#)

(2) [O.J. L275, 25.10.2003,p.32](#)

- (i) setting emission limit values that do not exceed the emission levels associated with BAT. Those emission limit values shall be expressed for the same or shorter periods of time and under the same reference conditions as those emission levels associated with BAT; or
    - (ii) setting different emission limit values than those referred to under sub-paragraph (a) in terms of values, periods of time and reference conditions, and at least annually, assessing the results of emission monitoring in order to ensure that emissions under normal operating conditions have not exceeded the emission levels associated with BAT; and
  - (b) may take into account the effect of a waste water treatment plant when determining the emission limit values applying in relation to indirect releases into water from a Part A installation or Part A mobile plant provided that an equivalent level of protection of the environment as a whole is maintained and that taking such treatment into account does not lead to higher levels of pollution.
- (3) By way of derogation from paragraph (2), but without prejudice to regulation 12(4), the chief inspector may, in specific cases, set less strict emission limit values. In such cases—
- (a) an assessment must show that the achievement of emission levels associated with BAT as described in BAT conclusions would lead to disproportionately higher costs compared to the environmental benefits due to—
    - (i) the geographical location or the local environmental conditions of the installation concerned; or
    - (ii) the technical characteristics of the installation concerned;
  - (b) the chief inspector shall document in an annex to the permit conditions the reasons for the application of sub-paragraph (a) including the result of the assessment and the justification for the conditions imposed;
  - (c) the emission limit values set in accordance with sub-paragraph (a) shall, however, not exceed the emission limit values set out in Annexes V and VI to the IED, where applicable; and
  - (d) the chief inspector shall re-assess the application of sub-paragraph (a) as part of each review of the permit conditions pursuant to regulation 17.
- (4) The chief inspector may grant temporary derogations from the requirements of regulation 11(2)(a) and paragraph (2) of this regulation for the testing and use of emerging techniques for a total period of time not exceeding nine months, provided that after the period specified, either the technique is stopped or the activity achieves at least the emission levels associated with BAT.
- (5) The chief inspector shall include conditions—
- (a) requiring the operator to inform the enforcing authority, immediately, of any incident or accident which causes or may cause significant pollution and to immediately take all appropriate measures to limit the environmental consequences and to prevent further possible incidents or accidents; and
  - (b) in the event of a breach of any permit condition, requiring the operator to—
    - (i) inform the regulator;
    - (ii) take the measures necessary to ensure that compliance is restored within the shortest possible time; and
  - (c) in the event of a breach of a permit condition which poses an immediate danger to human health or threatens to cause an immediate significant adverse effect on the environment, immediately suspend the operation of the installation or mobile plant or the relevant part of it until compliance with the permit conditions has been restored.

- (6) The chief inspector shall also include conditions—
- (a) aimed at minimising long distance and transboundary pollution;
  - (b) ensuring appropriate protection of the soil and groundwater and appropriate management of waste generated by the installation or mobile plant, including appropriate requirements for the regular maintenance and surveillance of measures taken to prevent emissions to soil and groundwater and appropriate requirements concerning the periodic monitoring of soil and groundwater in relation to relevant hazardous substances likely to be found at the site and having regard to the possibility of soil and groundwater contamination at the site of the installation. Periodic monitoring shall be carried out at least once every five years for groundwater and ten years for soil, unless such monitoring is based on a systematic appraisal of the risk of contamination;
  - (c) relating to the periods when the installation or mobile plant is not operating normally and there is a risk that the environment may be adversely affected during such periods, including, in particular, conditions relating to the start up of operations, leaks, malfunctions and momentary stoppages;
  - (d) setting out the steps to be taken prior to the operation of the installation or mobile plant and after the definitive cessation of operations;
  - (e) setting out suitable emission monitoring requirements, specifying the measurement methodology, frequency and the evaluation procedure, ensuring that the operator supplies the chief inspector with the data required to check compliance with the permit and where emission limit values are set in accordance with paragraph (2)(a)(ii), requiring that the results of emission monitoring are available for the same periods of time and reference conditions as for the emission levels associated with BAT; and
  - (f) requiring the operator to supply the chief inspector regularly and at least annually with the results of the monitoring of emissions, the basis of those results and other specified data that enables the chief inspector to verify compliance with the permit conditions and, where emission limit values are set in accordance with paragraph (2)(a)(ii), requiring that a written summary of the results is supplied which allows a comparison with the emission levels associated with BAT.

(7) A permit authorising the operation of a Part A installation or Part A mobile plant may include a condition (an “off-site condition”) requiring the operator to carry out works or do other things in relation to land not forming part of the site of the installation or mobile plant notwithstanding that he is not entitled to carry out the works or do the things, and any person whose consent would be required shall grant, or join in granting, the operator such rights in relation to that land as will enable the operator to comply with any requirements imposed on him by the permit.

(8) Schedule 6 shall have effect in relation to compensation where rights are granted pursuant to paragraph (7).

(9) A permit which authorises any activity relating to waste oils shall contain conditions ensuring that, so far as technically feasible and economically viable—

- (a) waste oils having different characteristics are not mixed; and
- (b) waste oils are not mixed with other kinds of waste or substances, if such mixing would impede their treatment.

(10) In paragraph (9), “waste oils” and “treatment” have the same meanings as in Directive [2008/98/EC](#).

#### **Conditions of permits: specific conditions for Part B and C installations and mobile plant**

**14.—**(1) The enforcing authority shall include in all permits authorising any Part B or Part C installation or Part B or Part C mobile plant, such other conditions as appear to the enforcing authority

to be appropriate, when taken together with the condition implied by regulation 12(8), for the purpose of preventing or, where that is not practicable, reducing emissions into the air, taking into account, in particular, the general principles set out in regulation 11(2).

(2) Subject to regulation 12(4), in the case of Part B or Part C installations and Part B or Part C mobile plant, the emission limit values required by regulation 12(2) shall be based on BAT for the description of installation or mobile plant concerned but shall take account of the technical characteristics of the particular installation or mobile plant being permitted and, in the case of an installation, its geographical location and the local environmental conditions.

(3) Where a Part B or Part C mobile plant authorised by a permit is used to carry out an activity on the site of an installation which is authorised by a separate permit then, if different requirements are imposed in the permits in respect of the carrying out of the activity, the requirements in the permit authorising the operation of the installation shall prevail in the event of any inconsistency.

### **Conditions of permits: Department's notice in relation to emissions into water**

**15.**—(1) In the case of a Part A installation or Part A mobile plant the Department may, at any time, give notice to the chief inspector specifying the emission limit values or conditions (not containing emission limit values) which it considers are appropriate in relation to preventing or reducing emissions into water.

(2) Where a notice under paragraph (1) specifies emission limit values, the emission limit values required by regulation 12(2), in relation to emissions into water from the installation or mobile plant concerned, shall be those specified in that notice or such stricter emission limit values as may be determined by the chief inspector in accordance with the application of BAT or required by regulation 12(4).

(3) Where a notice under paragraph (1) specifies conditions in relation to emissions into water from an installation or mobile plant, the permit authorising the operation of that installation or mobile plant shall include those conditions or any more onerous conditions dealing with the same matters as the chief inspector considers are appropriate.

### **General binding rules**

**16.**—(1) The Department may make rules (“general binding rules”) containing requirements applying to certain types of installation or mobile plant.

(2) The Department shall only make general binding rules under this regulation applying to Part A installations or Part A mobile plant, if it is satisfied that the operation of such installations or mobile plant under the rules will result in the same high level of environmental protection and integrated prevention and control of pollution, as would result from the operation of the installations or mobile plant under the conditions that would be included in the permits for those installations or mobile plant, pursuant to regulations 12 and 13 if the rules did not apply.

(3) In the case of a Part A installation or Part A mobile plant, general binding rules shall be based on BAT, without prescribing the use of any technique or specific technology, in order to ensure compliance with Articles 14 and 15 of the IED.

(4) The Department shall ensure that general binding rules applying to Part A installations or Part A mobile plant are updated to take into account any developments in BAT and in order to ensure compliance with Article 21 of the IED.

(5) Where the Department makes general binding rules an enforcing authority may, at the request of the operator, include, in a permit authorising the operation of an installation or mobile plant covered by the rules, a condition (a “general binding rules condition”) providing that the aspects of the operation of the installation or mobile plant covered by the requirements in the rules

shall be subject to those requirements instead of to conditions included in the permit pursuant to regulations 12 to 14.

(6) Where a permit includes a general binding rules condition the requirements in the general binding rules shall be treated as if they were conditions of the permit for the purpose of regulations 26, 27 and 36(1)(b).

(7) The Department may vary general binding rules by means of a notice of variation specifying the variations and the date on which the variations are to take effect, which shall not be less than 3 months after the date on which notice of the variation is given in the Belfast Gazette pursuant to paragraph (11)(c).

(8) The Department may revoke general binding rules by means of a notice of revocation.

(9) Where aspects of the operation of an installation or mobile plant are covered by the requirements in general binding rules which are revoked, the enforcing authority shall vary the permit authorising the operation of the installation or mobile plant under regulation 19, to delete the general binding rules condition and to insert the conditions that will be required by regulations 11 to 14 when the requirements in the general binding rules no longer apply.

(10) Where the Department revokes general binding rules, the requirements in the general binding rules shall continue to be treated under paragraph (6) as if they were conditions of a permit until the variations of the permit required by paragraph (9) take effect.

(11) Where the Department makes, varies or revokes general binding rules it shall—

- (a) serve a copy of the rules, notice of variation or notice of revocation on the chief inspector and all district councils;
- (b) publish the rules, notice of variation or notice of revocation in such manner as it considers appropriate for the purpose of bringing the rules or notice to the attention of operators likely to be affected by them and, in the case of Part A installations or Part A mobile plant, the rules shall contain a reference to the IED; and
- (c) give notice of the making, variation or revocation of the rules in the Belfast Gazette.

### **Review of conditions of permits**

17.—(1) Enforcing authorities shall periodically review the conditions of permits and may do so at any time.

(2) Without prejudice to paragraph (1), a review of a permit under this regulation shall be carried out where—

- (a) the pollution caused by the installation or mobile plant covered by the permit is of such significance that the existing emission limit values of the permit need to be revised or new emission limit values need to be included in the permit;
- (b) substantial changes in BAT make it possible to reduce emissions from the installation or mobile plant significantly without imposing excessive costs;
- (c) the operational safety of the activities carried out in the installation or mobile plant requires other techniques to be used; or
- (d) it is necessary to comply with a new or revised environmental quality standard.

(3) In relation to Part A installations and Part A mobile plant, at the request of the chief inspector, the operator shall submit all the information necessary for the purpose of reconsidering the permit conditions, including, in particular, results of emission monitoring and other data, that enables a comparison of the operation of the installation or mobile plant with the BAT described in the applicable BAT conclusions and with the emission levels associated with BAT.

(4) When reconsidering permit conditions for Part A installations or Part A mobile plant, the chief inspector shall—



- (a) use any information resulting from monitoring or inspections;
- (b) within four years of publication of decisions on BAT conclusions relating to the main activity of an installation or mobile plant, ensure that all the permit conditions for the installation or mobile plant concerned are considered and, if necessary, updated to ensure compliance with the IED; and
- (c) take into account all the new or updated BAT conclusions, applicable to the installation or mobile plant, since the permit was granted or last reconsidered.

### **Proposed change in the operation of an installation or mobile plant**

**18.**—(1) Subject to paragraph (4), where an operator of an installation or mobile plant which is permitted under these Regulations proposes to make a change in the operation of that installation or mobile plant the operator shall, at least 14 days before making the change, notify the enforcing authority.

(2) A notification under paragraph (1) shall be in writing and shall contain a description of the proposed change in the operation of the installation or mobile plant.

(3) An enforcing authority shall, by notice in writing served on the operator, acknowledge receipt of any notification received under paragraph (1).

(4) Paragraph (1) shall not apply where the operator applies under regulation 19(2) for the variation of the conditions of his permit before making the proposed change and the application contains a description of the change.

### **Variation of conditions of permits**

**19.**—(1) The enforcing authority may at any time vary the conditions of a permit and shall do so if it appears to the enforcing authority at that time, whether as a result of a review under regulation 17, a notification under regulation 15 or regulation 18 or otherwise, that regulations 11, 12, 13 and 14 of these Regulations or regulation 8 of the 2003 Landfill Regulations require conditions to be included which are different from the subsisting conditions.

(2) An operator of an installation or mobile plant which is permitted under these Regulations may apply to the enforcing authority for the variation of the conditions of his permit.

(3) An application under paragraph (2) shall be made in accordance with Part 1 of Schedule 7 and shall be accompanied by any fee prescribed in respect of the application in accordance with regulation 25; and Schedule 7 shall have effect with respect to such applications.

(4) Where an application is duly made to the enforcing authority under paragraph (2), the enforcing authority shall determine, in accordance with regulations 11, 12, 13, 14 and 17 of these Regulations or regulation 8 of the 2003 Landfill Regulations, whether to vary the conditions of the permit.

(5) Where the enforcing authority decides to vary the conditions of the permit, whether on an application under paragraph (2) or otherwise, it shall serve a notice in writing on the operator (a “variation notice”) specifying the variations of the conditions of the permit and the date or dates on which the variations are to take effect and, unless the notice is withdrawn, the variations specified in the notice shall take effect on the date or dates so specified.

(6) A variation notice served under paragraph (5) shall, unless served for the purpose of determining an application under paragraph (2), require the operator to pay, within such period as may be specified in the notice, any fee prescribed in respect of the variation notice in accordance with regulation 25.

(7) Where the enforcing authority decides on an application under paragraph (2) not to vary the conditions of the permit, it shall give notice of its decision to the operator in writing.

(8) Parts 1, 2 and 3 of Schedule 7 shall have effect subject to Part 4 of that Schedule.

(9) This regulation and Schedule 7 apply to the variation of any provision other than a condition which is contained in a permit as they apply to the variation of a condition.

### **Transfer of permits**

**20.**—(1) Where the operator of an installation or mobile plant wishes to transfer their permit, in whole or in part, to another person (“the proposed transferee”) the operator and the proposed transferee shall jointly make an application to the enforcing authority to effect the transfer.

(2) An application under paragraph (1) shall be accompanied by the permit and any fee prescribed in respect of the transfer under regulation 25 and shall contain—

- (a) the operator’s and the proposed transferee’s telephone number and address and, if different, any address to which correspondence relating to the application should be sent; and
- (b) in the case of an application to effect the transfer of a permit or part of a permit that authorises the carrying out of a specified waste management activity, any information which the applicants wish the chief inspector to take into account when considering whether the transferee is a fit and proper person to carry out that activity.

(3) Where the operator wishes to retain part of their permit (a “partial transfer”), an application under paragraph (1) shall—

- (a) identify the installation or mobile plant to which the transfer applies (the “transferred unit”); and
- (b) where the transfer applies to the operation of an installation or Part A mobile plant, contain a map or plan identifying the part of the site used for the operation of that installation or mobile plant (the “identified part of the site”).

(4) Subject to paragraph (5), the enforcing authority shall effect the transfer unless it considers that the proposed transferee will not be the person who will have control over the operation of the installation or mobile plant covered by the transfer after the transfer is effected or will not ensure compliance with the conditions of the transferred permit.

(5) In the case of an application to effect the transfer of a permit or part of a permit which authorises the carrying out of a specified waste management activity, the chief inspector shall only effect the transfer if the chief inspector is satisfied that the proposed transferee is a fit and proper person to carry out that activity.

(6) The enforcing authority shall effect a transfer under this regulation by—

- (a) in the case of a partial transfer—
  - (i) issuing a new permit, to the proposed transferee for that part of the installation or mobile plant to which the transfer relates; and
  - (ii) returning the original permit to the operator, endorsed to record the transfer in respect of the transfer and any variation of the permit conditions; or
- (b) in the case of a transfer of the whole permit, causing the permit to be endorsed with the name and other particulars of the proposed transferee as the operator of the installation or mobile plant concerned,

and the transfer shall take effect from such date as may be agreed with the applicants and specified in the endorsement and, in the case of a partial transfer, the new permit.

(7) In the case of a partial transfer effected under this regulation, the conditions included in the new permit and original permit after the transfer shall be the same as the conditions included in the original permit immediately before the transfer in so far as they are relevant to any installation, site and mobile plant covered by the new permit or the original permit, but subject to such variations as, in the opinion of the enforcing authority, are necessary to take account of the transfer.

(8) If within the period of two months beginning with the date on which the enforcing authority receives an application under paragraph (1), or within such longer period as the enforcing authority and the applicants may agree in writing, the enforcing authority has neither effected the transfer nor given notice in writing to the applicants that it has rejected the application, the application shall, if the applicants notify the enforcing authority in writing that they treat the failure as such, be deemed to have been refused at the end of that period or that longer period.

(9) The enforcing authority may, by notice in writing, require the operator or the proposed transferee to furnish such further information specified in the notice, within the period so specified, as the enforcing authority may require for the purpose of determining an application under this regulation.

(10) Where a notice is served on an operator or proposed transferee under paragraph (9)—

- (a) for the purpose of calculating the period of two months specified in paragraph (8), no account shall be taken of the period beginning with the date on which notice is served and ending on the date on which the information specified in the notice is furnished; and
- (b) if the specified information is not furnished within the period specified, the application shall, if the enforcing authority gives notice in writing to the operator and proposed transferee that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

#### **Death of a permit holder**

21.—(1) This regulation applies if—

- (a) a permit is held by an individual (A); and
- (b) A dies.

(2) On the death of A, the permit—

- (a) shall be property forming part of A's personal estate; and
- (b) shall continue to have effect subject to—
  - (i) the same conditions that applied at the time of A's death; and
  - (ii) the condition mentioned in paragraph (3).

(3) The permit shall be read as if it contained the following condition—

“As soon as is practicable after administration of the estate of A, the personal representative shall notify the regulator that the permit has vested in them.”

(4) The permit shall cease to have effect 6 months after the date on which A dies, unless it is transferred in accordance with regulation 20, by the personal representative, before the end of that period.

#### **Surrender of a permit for a Part A installation or Part A mobile plant**

22.—(1) Subject to paragraph (2) this regulation applies where an operator of a Part A installation or Part A mobile plant ceases or intends to cease operating the installation (in whole or in part) or the mobile plant.

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

(3) Where this regulation applies, an operator may—

- (a) if they have ceased or intend to cease operating all of the installations and mobile plant covered by the permit, apply to the chief inspector to surrender the whole permit; or

- (b) in any other case, apply to the chief inspector to surrender the permit in so far as it authorises the operation of the installation or mobile plant (“the surrender unit”) which they have ceased or intend to cease operating (a “partial surrender”).
- (4) An application under paragraph (3) shall be accompanied by any fee prescribed in respect of the application under regulation 25, and shall contain the following information—
- (a) the operator’s telephone number and address and, if different, any address to which correspondence relating to the application should be sent;
  - (b) in the case of a partial surrender, a description of the surrender unit and a map or plan identifying the part of the site used for the operation of the surrender unit (the “identified part of the site”);
  - (c) a site report describing the condition of the site, or the identified part of the site, (“the report site”), identifying, in particular, any changes in the condition of the site as described in the site report, and where applicable, the baseline report, and including an assessment of any contamination caused to the soil or groundwater by relevant hazardous substances; and
  - (d) a description of the steps that have been taken to avoid pollution risks from the site, including any steps that have been taken to—
    - (i) return the site to a satisfactory state, and
    - (ii) remove, control, contain or reduce any relevant hazardous substance in soil and groundwater.
- (5) If the chief inspector is satisfied, in relation to the report site, that all appropriate measures to—
- (a) avoid any pollution risk resulting from the operation of the Part A installation or Part A mobile plant;
  - (b) return the site to a satisfactory state, taking into account the technical feasibility of the measures; and
  - (c) remove, control, contain or reduce any relevant hazardous substance in soil or groundwater so that the site, taking into account its current or approved future use, ceases to pose a significant risk to human health or the environment,
- have been taken by the operator, the chief inspector shall accept the surrender and give the operator notice in writing of the determination and the permit shall cease to have effect or, in the case of partial surrender, shall cease to have effect to the extent surrendered, on the date specified in the notice of determination.
- (6) If, in the case of a partial surrender, the chief inspector is of the opinion that it is necessary to vary the conditions included in the permit to take account of the surrender, the chief inspector shall specify the necessary variations in the notice of determination given under paragraph (4) and the variations specified in the notice shall take effect on the date specified in the notice.
- (7) If the chief inspector is not satisfied as specified in paragraph (5) he shall give to the operator notice in writing of his determination stating that the application has been refused.
- (8) The chief inspector shall give notice in writing of his determination of an application under this regulation within the period of three months beginning with the date on which the chief inspector receives the application or within such longer period as the chief inspector and the operator may agree in writing.
- (9) If the chief inspector fails to give notice in writing of his determination accepting the surrender or refusing the application within the period allowed by or under paragraph (8) the application shall, if the operator notifies the chief inspector in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

(10) The chief inspector may, by notice in writing to the operator, require the operator to furnish such further information specified in the notice, within the period so specified, as the chief inspector may require for the purpose of determining an application under this regulation.

(11) Where a notice is served on an operator under paragraph (10)—

- (a) for the purpose of calculating the period of three months specified in paragraph (8), no account shall be taken of the period beginning with the date on which notice is served and ending on the date on which the information specified in the notice is furnished; and
- (b) if the specified information is not furnished within the period specified, the application shall, if the chief inspector gives notice in writing to the operator that the failure is treated as such, be deemed to have been withdrawn at the end of that period.

(12) For the purpose of deciding whether a pollution risk results from the operation of a Part A installation or Part A mobile plant—

- (a) where the operation of the installation or plant involved the carrying out of a specified waste management activity, only risks resulting from the carrying out of that activity after the date on which the permit applying to the installation or mobile plant was granted shall be treated as resulting from the operation of the installation or mobile plant; and
- (b) where the operation of the installation or mobile plant involved the carrying out of other activities, only risks resulting from the carrying out of those other activities after the date on which the permit applying to the installation or mobile plant was granted shall be treated as resulting from the operation of the installation or mobile plant.

(13) The relevant date for a specified waste management activity for the purpose of paragraph (12) (a) is—

- (a) where the activity was carried out on the site of the installation or mobile plant under a disposal licence which, by virtue of Article 10(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978<sup>(3)</sup>, ceased to have effect in relation to the carrying out of that activity on that site on the granting of the permit applying to the installation or mobile plant, the date on which that disposal licence was granted; and
- (b) in any other case, the date on which the permit applying to the installation or mobile plant was granted.

(14) In paragraph (13)(a) “disposal licence” has the same meaning as in Article 5(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978.

(15) In paragraphs (4)(c) and (12) “permit” means a permit granted under these Regulations or under the Pollution Prevention and Control (Northern Ireland) Regulations 2003<sup>(4)</sup>.

### **Surrender of a permit for a Part B or Part C installation or Part B or Part C mobile plant**

**23.—**(1) This regulation applies—

- (a) where an operator of a Part B or Part C installation or Part B or Part C mobile plant ceases or intends to cease operating the installation (in whole or in part) or the mobile plant; and
- (b) in relation to that part of any installation or mobile plant where an activity falling within paragraphs (b), (d), (g) and (h) of Part A of section 5.1 of Part 1 of Schedule 1 is carried out.

(2) Where this regulation applies, the operator may—

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<sup>(3)</sup> S.I. 1978/1049 (N.I. 19)

<sup>(4)</sup> S.R. 2003 No.46 the amendments are S.I. 2003/3311, S.R. 2003 No. 390, S.R. 2003 No. 496, S.R. 2004 No. 36, S.R. 2004 No. 507, S.R. 2005 No. 285, S.R. 2005 No. 300, S.R. 2005 No. 454, S.R. 2006 No. 98, S.R. 2006 No. 280, S.R. 2007 No. 245, S.I. 2007/2325, S.R. 2009 No. 159, S.R. 2009 No. 403, S.R. 2011 No. 2, S.R. 2011 No. 127, S.R. 2011 No. 212 and S.R. 2011 No. 402.

- (a) if they have ceased or intend to cease operating all of the installations and mobile plant covered by the permit, notify the enforcing authority of the surrender of the whole permit; or
  - (b) in any other case, notify the enforcing authority of the surrender of the permit in so far as it authorises the operation of the installation or mobile plant (“the surrender unit”) which the operator has ceased or intends to cease operating (a “partial surrender”).
- (3) A notification under paragraph (2) shall contain the following information—
- (a) the operator’s telephone number and address and, if different, any address to which correspondence relating to the notification should be sent;
  - (b) in the case of a partial surrender of a permit, a description of the surrender unit and a map or plan identifying the part of the site used for the operation of the surrender unit;
  - (c) in the case of a partial surrender of a permit applying to mobile plant, a list of the mobile plant to which it applies; and
  - (d) the date on which the surrender is to take effect, which shall be at least 28 days after the date on which the notice is served on the enforcing authority.
- (4) The enforcing authority may, by notice in writing, require the operator to supply such further information specified in the notice within the period so specified.
- (5) Subject to paragraphs (6) and (7), where a surrender is notified under this regulation the permit shall cease to have effect on the date specified in the notification or, in the case of partial surrender, shall cease to have effect on that date to the extent surrendered.
- (6) If, in the case of a partial surrender, the enforcing authority is of the opinion that it is necessary to vary the conditions of the permit to take account of the surrender, the enforcing authority shall—
- (a) notify the operator of its opinion in writing; and
  - (b) serve a variation notice under regulation 19 on the operator specifying the variations of the conditions necessitated by the surrender,
- and the permit shall cease to have effect to the extent surrendered on the date on which the variations specified in the variation notice take effect if that date is after the date specified in the notification of the surrender.
- (7) If the enforcing authority has required the operator to supply further information by notice in writing, the enforcing authority shall serve notice on the operator acknowledging receipt of the requested information, and stating the date on which the permit will cease to have effect, which shall not be more than 28 days after the date on which the information was received.

### **Revocation of permits**

**24.—**(1) The enforcing authority may at any time revoke a permit, in whole or in part, by serving a notice in writing (“a revocation notice”) on the operator.

(2) Without prejudice to the generality of paragraph (1), the enforcing authority may serve a notice under this regulation in relation to a permit where—

- (a) the permit authorises the carrying out of a specified waste management activity and it appears to the chief inspector that the operator of the installation or mobile plant concerned has ceased to be a fit and proper person to carry out that activity by reason of their having been convicted of a relevant offence within the meaning of regulation 4(5) or by reason of the management of that activity having ceased to be in the hands of a technically competent person; or
- (b) the holder of the permit has ceased to be the operator of the installation or mobile plant covered by the permit.

- (3) A revocation notice may—
- (a) revoke a permit entirely;
  - (b) revoke a permit only in so far as it authorises the operation of some of the installations or mobile plant to which it applies; or
  - (c) revoke a permit only in so far as it authorises the carrying out of some of the activities which may be carried out in an installation or by means of mobile plant to which it applies.
- (4) A revocation notice shall specify—
- (a) in the case of a revocation specified in paragraph (3)(b) or (c) (a “partial revocation”), the extent to which the permit is being revoked; and
  - (b) in all cases, the date on which the revocation shall take effect, which shall be at least 28 days after the date on which the notice is served.
- (5) If, in the case of a revocation specified in paragraph (3)(b) or (c) applying to a Part A installation or Part A mobile plant, the chief inspector considers that it is appropriate to require the operator to take steps, once the installation or mobile plant is no longer in operation, to—
- (a) avoid any pollution risk resulting from the operation of the installation or mobile plant on the site or, in the case of a partial revocation, that part of the site used for the operation of that installation or mobile plant;
  - (b) return the site, or that part of the site, to a satisfactory state; or
  - (c) remove, control, contain or reduce any relevant hazardous substance in soil or groundwater so that the site, taking into account its current or approved future use, ceases to pose a significant risk to human health or the environment,
- the revocation notice shall specify that this is the case and, in so far as those steps are not already required to be taken by the conditions of the permit, the steps to be taken.
- (6) Subject to paragraph (7) and regulation 31(6), a permit shall cease to have effect, or, in the case of a partial revocation, shall cease to have effect to the extent specified in the revocation notice, from the date specified in the notice.
- (7) Where paragraph (5) applies, the permit shall cease to have effect to authorise the operation of the Part A installation or Part A mobile plant from the date specified in the revocation notice but shall continue to have effect in so far as the permit requires steps to be taken once it is no longer in operation until the chief inspector issues a certificate of satisfaction stating that all such steps have been taken.
- (8) Where a permit continues to have effect as specified in paragraph (7), any steps specified in a revocation notice pursuant to paragraph (5) shall be treated as if they were required to be taken by a condition of the permit and regulations 19, 26, 27 and 36(1)(b) shall apply in relation to the requirement to take such steps, and to any other conditions in the permit which require steps to be taken once the installation is no longer in operation, until the chief inspector issues a certificate as specified in paragraph (7).
- (9) An enforcing authority which has served a revocation notice may, before the date on which the revocation takes effect, withdraw the notice.
- (10) Regulation 22(12) shall apply for the purpose of deciding whether a pollution risk results from the operation of a Part A installation or Part A mobile plant for the purpose of this regulation as it applies for the purpose of regulation 22.

### **Fees and charges in relation to permits**

**25.—**(1) There shall be charged by and paid to the enforcing authority such fees and charges as may be prescribed by a scheme under paragraph (2) (whether by being specified in or made calculable under the scheme).

- (2) The Department may make, and from time to time revise, a scheme prescribing—
- (a) fees payable in respect of applications for permits;
  - (b) fees payable in respect of, or of applications for, the variation, transfer and surrender of such permits;
  - (c) charges payable in respect of the subsistence of such permits; and
  - (d) fees and costs payable in connection with appeals under these Regulations.
- (3) The Department shall, on making or revising a scheme under paragraph (2), lay a copy of the scheme or of the revisions made to the scheme or, if it considers it more appropriate, the scheme as revised, before the Assembly.
- (4) The Department may make separate schemes for fees and charges payable to the chief inspector and fees and charges payable to district councils under these Regulations.
- (5) A scheme under paragraph (2) may, in particular—
- (a) allow for reduced fees or charges to be payable in respect of permits granted to the same person;
  - (b) provide for the times at which and the manner in which the payments required by the scheme are to be made (subject to the requirements in these Regulations as to the times at which payment is required); and
  - (c) make such incidental, supplementary and transitional provisions as appears to the Department to be appropriate.
- (6) The Department, in framing a scheme under paragraph (2), shall, so far as practicable, secure that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover the expenditure incurred by—
- (a) the enforcing authorities in exercising their functions under these Regulations in relation to permits;
  - (b) the Department in exercising its functions under regulation 15(1) or in preparing guidance in relation to the authorisation of installations and mobile plant covered by district council permits.
- (7) A scheme under paragraph (2) may provide that, to the extent that the sums paid to a district council under the scheme relate to expenditure incurred by the Department as specified in paragraph (6)(b), those sums shall be paid by the district council to the Department.
- (8) If it appears to the enforcing authority that the holder of a permit has failed to pay a charge due in consideration of the subsistence of the permit, it may revoke the permit under regulation 24.
- (9) Any fees and charges received by the chief inspector under this regulation shall be paid into the Consolidated Fund.
- (10) In this regulation, “district council permit” means a permit applying to installations or mobile plant in relation to which a district council exercises functions under these Regulations.