

These notes refer to the Environmental Better Regulation Act (Northern Ireland) 2016 (c.13) which received Royal Assent on 11 April 2016

Environmental Better Regulation Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – General Environmental Regulation

Section 1: General purpose: protecting and improving the environment

Section 1 sets out the general purpose of Part 1, i.e. to make, by regulations, provision for protecting and improving the environment and specifies that the purpose extends to provision regulating environmental activities and provision implementing EU obligations or other international obligations.

Section 2: Regulations relating to protecting and improving the environment

Section 2 (1) enables the Department to make provision by regulations for any of the matters specified in Schedule 1.

Subsection (2) sets out that the provision that may be made is provision for and in connection with the matters mentioned in section 1.

Subsection (3) allows for regulations to provide that specified provisions of the regulations have effect in relation only to specified regulated activities, the carrying on of regulated activities in specified circumstances or the carrying on of regulated activities by specified persons or classes of person.

Subsection (4) allows for regulations to modify any statutory provision or document, make different provision for different cases, provide for the delegation of functions and impose requirements.

Subsection (5) allows regulations to contain consequential, incidental, supplementary, transitional or saving provisions as necessary.

Section 3: Regulations relating to protecting and improving the environment: consultation

Section 3(1) requires the Department, before making regulations relating to protecting and improving the environment, to consult certain regulators and such other persons as it considers appropriate. Subsection (2) has the effect that such consultation can be undertaken prior to the coming into operation of this section

Section 4: Regulations relating to protecting and improving the environment: objective

Section 4 elaborates on the purpose of the Act. Whilst the key purpose of Part 1 of the Act is to protect and improve the environment, in making regulations for that purpose the Department is to have the objective of reducing the regulatory and administrative burden on those carrying on regulated activities.

Section 5: General environmental rules

Section 5 enables the Department, by regulations under section 2 pursuant to paragraph 4(3)(c) of Schedule 1, to provide for general environmental rules to impose conditions or requirements, prescribe standards or objectives to be complied with or achieved, and require standards or objectives specified in or under other statutory provisions to be complied with or achieved.

Subsections (2), (3) and (4) require the Department to publish a draft of the proposed rules and to publicise the opportunity to make representations and allow copies of the proposed rules to be available for public inspection. The Department will have regard to any representations made to it within the determined period.

Section 6: Interpretation

Section 6 defines terms used in Part 1 of the Act. It includes definitions of:

- “environmental activities” (to cover activities that are capable of causing, or liable to cause, environmental harm); and
- “environmental harm” (to cover a wide range of matters, including-
 - harm to the quality of the environment such as might be caused by, for example, polluting activities, and
 - offence to the senses of human beings such as might be caused by, for example, excessive noise or unpleasant odours or stenches).

In this context, “activities” is also defined, so that it covers a broad range of matters including the production, treatment, keeping, transportation, depositing or disposal of substances.

The effect is that the Act enables the regulation under section 2 of a wide range of matters relating to environmental activities, and the prevention of environmental harm.

The definitions of “environmental harm” and “protecting and improving the environment” make reference to “ecosystems”. An ecosystem is a very wide ranging term and can be defined as including all of the living things (plants, animals and organisms) in a given area, interacting with each other, and also with their non-living environments (weather, earth, sun, soil, climate, atmosphere).