ENVIRONMENT (NORTHERN IRELAND) ORDER 2002

S.I. 2002 No. 3153 (N.I. 7)

EXPLANATORY MEMORANDUM

PURPOSE

2. The purpose of the Order is to:

   (a) provide a statutory framework to enable transposition of the requirements of EC Directives 96/61 on Integrated Pollution Prevention and Control (the IPPC Directive) and 96/62 on Ambient Air Quality Assessment and Management;

   (b) make additional provision for the prevention and control of environmental pollution; and

   (c) introduce measures to allow for the better protection and management of Areas of Special Scientific Interest (ASSIs).

3. It will provide in Northern Ireland legislation broadly similar to that already in operation in Great Britain in the Environment Act 1995 (Part IV), the Pollution Prevention and Control Act 1999 and the Countryside and Rights of Way Act 2000.

Part I: Introductory

4. The first part of the Order has 2 Articles relating to the Order as a whole. Article 1 provides for the title and commencement provisions. Article 2 deals with interpretation and defines a number of general terms used throughout the Order. It also applies the Interpretation Act (Northern Ireland) 1954 which lays down rules for the construction of legislation in Northern Ireland.

Part Ii: Pollution Prevention and Control

Background and Policy Objectives

5. The aim of the IPPC Directive is to provide a regulatory framework for a high level of protection of the environment through the prevention or reduction of emissions to air, water and land as a result of industrial activities.

6. The European Council adopted the IPPC Directive in September 1996. It is derived in large measure from the UK system of integrated pollution control (although there are some important differences) which was introduced in Northern Ireland in the Industrial Pollution Control (Northern Ireland) Order 1997 (the 1997 Order) and the legislation now proposed will, to a large extent, follow the procedures already established by the 1997 Order.

7. Once implemented, the new arrangements will progressively replace the current controls on industrial pollution provided for in the 1997 Order.

Current Position

8. The 1997 Order provides for a 3-tier system for the control of pollution from certain prescribed industrial processes, as follows: -

- those processes with the greatest potential for pollution (Part A processes) are subject to a system of integrated pollution control. This means that a single authorisation covers releases to air and water as well as addressing waste minimisation and handling of wastes on site. The enforcing authority for Part A processes is a Chief Inspector appointed under the Order by the Department;
- a range of processes with lesser pollution potential (Part B processes) are subject to a system of air pollution control only. The enforcing authority for this category is also the Chief Inspector;
- a further range of processes (Part C processes) are also subject to a system of air pollution control only with the relevant district council as the enforcing authority.

9. Authorisations under the 1997 Order must contain conditions based, primarily, on the use of the "best available techniques not entailing excessive cost" for preventing or minimising polluting emissions. Part A processes must also have regard to the "best practical environmental option".

Key Features

10. The provisions of Part II will share a number of features with the current arrangements under the 1997 Order. In particular, they will retain the regulatory structures of that Order with a Chief Inspector assuming responsibility for regulation as Part A activities of those installations listed in Annex 1 to the IPPC Directive. This means that all such installations will be assessed against their capacity to cause significant pollution to air, water and land.

11. In addition, the provisions of the 1997 Order relating to Part B and Part C processes will be repealed and re-enacted in the new legislation.

12. However, to reflect the specific requirements of the IPPC Directive, Part II will provide for the subordinate legislation to apply a number of new features to Part A installations. These may be summarised as follows:

- The legislation will require the permitting of installations rather than the authorisation of processes.
- The range of installations will be much wider than at present. The main additions, above a certain capacity, will be
  - — agricultural installations for the intensive rearing of poultry and pigs;
  - — landfill sites;
  - — slaughterhouses;
  - — installations for the treatment and processing of animal raw materials; and
  - — installations for the treatment and processing of vegetable raw materials.
- The range of environmental impacts to be considered by the Chief Inspector when considering the grant of a permit will be much wider and will include issues such as noise, site restoration, accident prevention, energy efficiency and raw material selection and use.
- There is no provision for any installations to be exempted from control, for example, because of the "triviality" of its emissions.
- There are no timescales set for the review of permits which are to be reviewed "periodically" to take account of technological or other changes.
- There will be provision for the use of general binding rules as an alternative to individually tailored permit conditions across sectors where there is a high degree of uniformity.

13. The IPPC Directive's requirements applied to new installations immediately upon its coming into effect and to parts of existing installations which undergo a "substantial change" immediately such a change occurred. Existing installations in so far as they are not substantially changed, were afforded a period of grace of up to eight years after the Directive was brought into effect, during which they would need to be upgraded to meet the Directive's requirements. All installations therefore must be permitted by 31 October 2007. Once issued, a permit must be reviewed periodically, and must be updated if there are significant technological or other developments.

14. A phased call-in of installations by sector will be provided for in the subordinate legislation. Special provision will also be made for dealing immediately with those installations which required permitting in the period between the operational date of the Directive and the effective date of the legislation.