

**2003 No. 390**

**ENVIRONMENTAL PROTECTION**

**The Waste Incineration Regulations (Northern Ireland) 2003**

*Made* - - - - - *29th August 2003*

*Coming into operation* *22nd September 2003*

The Department of the Environment, in exercise of the powers conferred upon it by Article 4 of the Environment (Northern Ireland) Order 2002(a) and of all other powers enabling it in that behalf and having, in accordance with Article 4(4) of that Order, consulted district councils and such bodies or persons appearing to it to be representative of the interests of district councils as it considers appropriate, such bodies and persons appearing to it to be representative of the interests of industry, agriculture and business as it considers appropriate and such other bodies or persons as it considers appropriate, hereby make the following Regulations:

**Citation and commencement**

**1.** These Regulations may be cited as the Waste Incineration Regulations (Northern Ireland) 2003 and shall come into operation on 22nd September 2003.

**Interpretation**

**2.—(1)** In these Regulations –

“the 1978 Order” means the Pollution Control and Local Government (Northern Ireland) Order 1978(b);

“the 1997 Order” means the Industrial Pollution Control (Northern Ireland) Order 1997(c);

“the 2003 Regulations” means the Pollution Prevention and Control Regulations (Northern Ireland) 2003(d);

“authorisation” means an authorisation granted under Article 6 of the 1997 Order;

“the Directive” means Directive 2000/76/EC on the Incineration of Waste(e);

“disposal licence” means a disposal licence granted under Article 7 of the Pollution Control and Local Government (Northern Ireland) Order 1978(f);

“existing waste incineration installation” means a waste incineration installation which –

(a) in the case of an installation which is a co-incineration plant, is put into operation before 28th December 2004 subject to a relevant approval; or

(b) in any other case –

(i) is put into operation before 28th December 2003 subject to a relevant approval granted before 28th December 2002; or

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(a) S.I. 2002/3153 (N.I. 7)  
(b) S.I. 1978/1049 (N.I. 19)  
(c) S.I. 1997/2777 (N.I. 18)  
(d) S.R. 2003 No. 46  
(e) O.J. No. L332, 28.12.2000, p. 91  
(f) S.I. 1978/1049 (N.I. 19)

- (ii) is put into operation before 28th December 2004, subject to a relevant approval granted on the basis of a duly made application submitted before 28th December 2002,

and where an installation becomes authorised as a waste incineration installation for the first time as a result of a modification notice pursuant to Article 9 of the 1978 Order, or a variation notice pursuant to Article 10 or 11 of the 1997 Order or regulation 17 of the 2003 Regulations, references in this definition to a relevant approval shall be construed as references to that modification or variation and not to the original relevant approval, and references to the grant of an approval shall be construed as references to the service of the notice effecting the modification or variation;

“permit” means a permit granted under regulation 10 of the 2003 Regulations;

“planning permission” means planning permission granted under the Planning (Northern Ireland) Order 1991(a); and

“relevant approval” means any of the following –

- (a) an authorisation;
- (b) a disposal licence;
- (c) a permit; or
- (d) planning permission.

(2) Words and expressions, which are defined in the 2003 Regulations and used in these Regulations, shall have the same meaning as in the 2003 Regulations.

#### **Application in relation to waste incineration installations**

3.—(1) Subject to paragraph (7), where an existing waste incineration installation is subject on 31st December 2004 to a permit, the operator shall within the period 1st to 28th February 2005 make an application under regulation 17 of the 2003 Regulations for a variation of the conditions of that permit.

(2) Subject to paragraph (7), where an existing waste incineration installation (not being one falling within section 5.1 of Part 1 of Schedule 1 of the 2003 Regulations), is subject on 31st December 2004 to an authorisation, the operator shall within the period 1st to 28th February 2005 either –

- (a) apply under Article 11 of the 1997 Order for a variation of the conditions of the authorisation; or
- (b) make an application for a permit under regulation 10 of the 2003 Regulations.

(3) An application under paragraph (1) or (2) shall contain the information specified in paragraph 1A of Part 1 of Schedule 4 of the 2003 Regulations.

(4) Subject to paragraph (7), where a waste incineration installation would have fallen within paragraph (a), (b)(i) or (b)(ii) of the definition of existing waste incineration installation in regulation 2 had it been put into operation before the date specified in the applicable paragraph, it shall not thereafter be put into operation unless –

- (a) in the case of an installation which is already subject to a permit, the permit is varied pursuant to an application under regulation 17 of the 2003 Regulations; or
- (b) in any other case, a permit is granted in relation to the installation.

(5) Where an operator fails to comply with a requirement of this regulation the Chief Inspector shall serve a notice on the operator specifying the period within which he must comply with that requirement.

(6) A notice served under paragraph (5) shall be treated as an enforcement notice served under regulation 24(1) of the 2003 Regulations.

(7) Paragraphs (1), (2) and (4) shall not apply where an operator holds a relevant approval, which contains conditions requiring the operator to meet the requirements of the Directive.

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(a) S.I. 1991/1220 (N.I. 11)

## **Transitional provisions**

4. Part 1 of Schedule 3 to the 2003 Regulations shall apply in relation to any installation or mobile plant which by virtue of these Regulations becomes a Part A installation or Part A mobile plant (but which would otherwise not have been an installation or mobile plant or would have been a Part B or Part C installation or Part B or Part C mobile plant) as if –

- (a) in paragraph 4 sub-paragraph (1) were omitted; and
- (b) in paragraph 6 –
  - (i) for the definition of “existing” there were substituted –
    - “ “existing” means, in relation to a Part A installation or a Part A mobile plant –
    - (a) an installation or mobile plant which is put into operation pursuant to a relevant authorisation granted where required, before 28th December 2002;
    - or
    - (b) an installation or mobile plant, which is put into operation on or after that date if –
    - (i) its operation was authorised by a relevant authorisation before that date;
    - or
    - (ii) an application for such authorisation was duly made before that date”;
  - (ii) in the definition of “new” for “31st October 1999” there were substituted “28th December 2002”; and
  - (iii) in the definition of “relevant authorisation” for “31st October 1999” (in both places where it occurs) there were substituted “28th December 2002”.

## **Amendments to the 2003 Regulations**

5.—(1) The 2003 Regulations have effect subject to the following amendments.

(2) In regulation 2 (interpretation: general) –

(a) in paragraph (2) after the definition of “variation notice” insert –

“ “waste incineration installation” means that part of an installation or mobile plant in which any of the following activities is carried out –

- (i) the incineration of waste falling within section 5.1 A(a), (b), (c), (d) or (e) of Part 1 of Schedule 1; or
- (ii) any activity falling within any section of that Part of that Schedule which is carried out in a co-incineration plant as defined in section 5.1 of that Part of that Schedule”; and

(b) after paragraph (2) insert –

“(2A) For the purposes of these Regulations a change in the operation of a waste incineration installation which involves incineration or co-incineration of waste for the first time of hazardous waste shall be treated as a substantial change in operation, and for the purposes of this paragraph “co-incineration” and “hazardous waste” shall have the meanings given in section 5.1 of Part 1 of Schedule 1.”

(3) In regulation 19 (application to surrender a permit for a Part A installation or Part A mobile plant) –

(a) in paragraph (1), delete “This regulation” and substitute “Subject to paragraph (1A) this regulation”; and

(b) after paragraph (1) insert –

“(1A) This regulation does not apply in relation to that part of any installation or mobile plant where an activity falling within section 5.1A(d) or (e) of Part 1 of Schedule 1 is carried out.”

(4) In regulation 20 (Notification of surrender of a permit for a Part B or Part C installation or Part B or Part C mobile plant) insert –

“(1A) This regulation also applies in relation to that part of any installation or mobile plant where an activity falling within Section 5.1A(d) or (e) of Part 1 of Schedule 1 is carried out.”

(5) In Part 1 of Schedule 1 (Activities, Installations and Mobile Plant)

(a) delete section 5.1 and substitute –

#### “SECTION 5.1

#### INCINERATION AND CO-INCINERATION OF WASTE

##### Part A

- (a) The incineration of hazardous waste in an incineration plant.
- (b) Unless carried out as part of any other Part A activity, the incineration of hazardous waste in a co-incineration plant.
- (c) The incineration of non-hazardous waste in an incineration plant with a capacity of 1 tonne or more per hour.
- (d) The incineration of non-hazardous waste in an incineration plant with a capacity of less than 1 tonne per hour.
- (e) Unless carried out as part of any other Part A activity, the incineration of non-hazardous waste in a co-incineration plant.
- (f) Unless carried out as part of any other activity in this Part, the incineration of hazardous waste in a plant which is not an incineration plant or a co-incineration plant.
- (g) Unless carried out as part of any other activity in this Part, the incineration of non-hazardous waste in a plant which is not an incineration plant or a co-incineration plant but which has a capacity of 1 tonne or more per hour.

##### Part B

- (a) The incineration of waste in an incineration plant, which is authorised for the incineration of radioactive waste under section 13 of the Radioactive Substances Act 1993(a).

##### Part C

- (a) The incineration of non-hazardous waste in a plant which is not an incineration plant or a co-incineration plant but which has a capacity of 50 kilogrammes or more per hour but less than 1 tonne per hour.
- (b) The cremation of human remains.

#### **Interpretation of section 5.1**

In this section –

“co-incineration” means the use of wastes as a regular or additional fuel in a co-incineration plant or the thermal treatment of waste for the purpose of disposal in a co-incineration plant;

“co-incineration plant” means any stationary or mobile plant whose main purpose is the generation of energy or production of material products and:

- (i) which uses wastes as a regular or additional fuel; or
- (ii) in which waste is thermally treated for the purpose of disposal.

If co-incineration takes place in such a way that the main purpose of the plant is not the generation of energy or production of material products but rather the thermal treatment of waste, the plant shall be regarded as an incineration plant.

This definition covers the site and the entire plant including all co-incineration lines, waste reception, storage, on site pre-treatment facilities, waste-, fuel-, and air-supply

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(a) 1993 c. 12

systems, boiler, facilities for the treatment of exhaust gases, on-site facilities for treatment or storage of residues and waste water, stack devices and systems for controlling incineration operations, recording and monitoring incineration conditions; but does not cover co-incineration in excluded plant;

“excluded plant” means –

- (a) a plant treating only the following wastes –
  - (i) vegetable waste from agriculture and forestry;
  - (ii) vegetable waste from the food processing industry, if the heat generated is recovered;
  - (iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;
  - (iv) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood-preservatives or coating, and which includes in particular such wood waste originating from construction and demolition waste;
  - (v) cork waste;
  - (vi) radioactive waste;
  - (vii) animal carcasses as regulated by Council Directive 90/667/EEC laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin and amending Directive 90/425/EEC(a); or
  - (viii) waste resulting from the exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installation; and
- (b) an experimental plant used for research, development and testing in order to improve the incineration process and which treat less than 50 tonnes of waste per year.

“hazardous waste” means any solid or liquid waste as defined in Article 1(4) of Council Directive 91/689/EEC on hazardous waste(b) except for –

- (a) combustible liquid wastes including waste oils as defined in Article 1 of Council Directive 75/439/EEC on the disposal of waste oils(c), provided that they meet the following criteria –
  - (i) the mass content of polychlorinated aromatic hydrocarbons, for example polychlorinated biphenyls or pentachlorinated phenol amounts to concentrations not higher than those set out in the relevant Community legislation(d);
  - (ii) these wastes are not rendered hazardous by virtue of containing other constituents listed in Annex II to Council Directive 91/689/EEC on hazardous waste in quantities or in concentrations which are inconsistent with the achievement of the objectives set out in Article 4 of Council Directive 75/442/EEC on waste(e); and
  - (iii) the net calorific value amounts to at least 30 MJ per kilogramme.
- (b) any combustible liquid wastes which cannot cause, in the flue gas directly resulting from their combustion, emissions other than those from gasoil as defined in Article 1(1) of Council Directive 93/12/EEC relating to the sulphur content of certain liquid fuels(f) or a higher concentration of emissions than those resulting from the combustion of gasoil as so defined;

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(a) O.J. No. L363, 27.12.90, p. 51

(b) O.J. No. L377, 31.12.91, p. 20 amended by Council Directive 94/31/EC (O.J. No. L168, 2.7.1994, p. 28)

(c) O.J. No. L194, 25.7.75, p. 23

(d) *See*, in particular Council Directive 96/59/EC (O.J. No. L243, 24.9.96, p. 31)

(e) O.J. No. L194, 25/7/75, p. 39 amended by Council Directives 91/156/EEC (O.J. No. L78, 26/3/91, p. 32) and 91/692/EEC (O.J. No. L377, 31.12.91, p. 48) and Commission Decision 96/350/EC (O.J. No. L135, 6.6.96, p. 32)

(f) O.J. No. L74, 27.3.1993, p. 81 amended by Council Directive 99/32/EC (O.J. No. L121, 11/5/99, p. 13)

“incineration plant” means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of wastes with or without recovery of the combustion heat generated. This includes the incineration by oxidation of waste as well as other thermal treatment processes such as pyrolysis, gasification or plasma processes in so far as the substances resulting from the treatment are subsequently incinerated.

This definition covers the site and the entire incineration plant including all incineration lines, waste reception, storage, on-site pre-treatment facilities, waste-fuel and air-supply systems, boiler, facilities for the treatment of exhaust gases, on-site facilities for treatment or storage of residues and waste water, stack, devices and systems for controlling incineration operations recording and monitoring incineration conditions; but does not cover incineration in an excluded plant;

“non-hazardous waste” means waste, which is not hazardous waste;

“waste” means any solid or liquid waste as defined in Article 1(a) of Council Directive 75/442/EEC on waste.”; and

(b) in Part A(c) of section 6.8 after “animal waste ” insert “otherwise than by incineration falling within section 5.1 of this Part of this Schedule”.

(6) In Part 3 of Schedule 1 (Interpretation of “Part A installation” etc.) delete paragraph 17.

(7) In Part 1 of Schedule 3 (Prescribed date and transitional arrangements) –

(a) in the table which follows paragraph 2(2) delete that part of the table which relates to activities falling within section 5.1 and substitute –

Section 5.1 Part A paragraphs (a) – (e)	1st – 28th February 2005
Section 5.1 Part A paragraphs (f) and (g)	1st – 30th September 2005

(b) in the definition of “existing” in paragraph 6, in sub-paragraph (a) after “operation”, insert “pursuant to a relevant authorisation granted where required.”; and

(c) in the definition of “relevant authorisation” in paragraph 6, after sub-paragraph (b) insert –

“(bb) where the operation of the installation or mobile plant immediately before 31st October 1999 requires a registration under the Alkali Act 1906, a registration under that Act;”.

(8) In Part 1 of Schedule 4 (Application for permits) –

(a) in paragraph 1, sub-paragraph (1)(d) after “Part A mobile plant” insert “(but excluding any part of such an application which relates to an activity falling within section 5.1 Part A(d) or (e) of Part 1 of Schedule 1)”;

(b) after paragraph 1 insert –

“1A.—(1) Subject to sub-paragraph (2) an application for a permit to operate a waste incineration installation shall in addition contain a description of the measures which are envisaged to guarantee in respect of that installation that –

(a) the plant is designed, equipped and will be operated in such a manner that the requirements of European Parliament Council Directive 2000/76/EC(a) on the incineration of waste are met, taking into account the categories of waste to be incinerated;

(b) the heat generated during the incineration and co-incineration process is recovered as far as practicable, for example through combined heat and power, the generating of process steam or district heating;

(c) the residues will be minimised in their amount and harmfulness and recycled where appropriate;

(d) the disposal of the residues which cannot be prevented, reduced or recycled will be carried out in conformity with national and Community legislation(b); and

(a) O.J. No. L332, 28.12.2000, p. 91

(b) See, for example, Council Directive 75/442/EEC (on waste) (O.J. No. L194, 25.7.75 p. 39), as amended by Council Directives 91/156/EEC (O.J. No. L78, 26.3.91, p. 32) and 91/692/EEC (O.J. No. L377, 31.12.91, p. 48) and Commission Decision 96/350/EC (O.J. No. L135, 6.6.96, p. 32

(e) the proposed measurement techniques for emissions into the air comply with Annex III of European Parliament Council Directive 2000/76/EC on the incineration of waste and, as regards water, comply with paragraphs 1 and 2 of that Annex.

(2) Sub-paragraph (1) shall not apply in relation to an application which was duly made before 28th December 2002 or in the case of any installation which is a co-incineration plant as defined in section 5.1 of Part 1 of Schedule 1, before 28th August 2004.”

(9) In Part 1 of Schedule 7 (Variation of Conditions), after paragraph 1(f) insert –

“(g) in the case of an application for the variation of the conditions of a permit in respect of a waste incineration installation the information specified in paragraph 1A of Schedule 4, or where such information has previously been included in an application made under these Regulations, a statement of any changes as respects the matters dealt with in paragraph 1A of Schedule 4 which would result if the proposed change in the operation of the installation or mobile plant requiring the variation were made”.

(10) In Schedule 10 (Registers) at the end of paragraph 1 insert –

“(aa) a list which identifies all waste incineration installations with a capacity of less than two tonnes per hour and which are the subject of a permit or an authorisation granted under Article 6 of the 1997 Order containing conditions which give effect to the provisions of European Parliament and Council Directive 2000/76/EC on the incineration of waste”.

Sealed with the Official Seal of the Department of the Environment on 29th August 2003.

(L.S.)

*Felix Dillon*

A senior officer of the Department of the Environment

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations implement European Parliament and Council Directive 2000/76/EC of 4th December 2002 on the incineration of waste.

Regulation 3 requires –

- (a) operators to apply for an authorisation or variation of an existing permit either under the 1997 Order or the 2003 Regulations;
- (b) applications by operators, of certain existing waste incineration installations (as defined in regulation 2) who do not hold a relevant approval but are subject to a permit on 31st December 2004, must make that application within the period 1st – 28th February 2005. The application, which will be a variation of the conditions of the permit, must be made under regulation 17 of the Pollution Prevention and Control Regulations 2003 (2003 Regulations);
- (c) application by operators of certain existing waste incineration installations (as defined in regulation 2) that are subject to an authorisation on 31st December 2004, to make that application within the period 1st – 28th February 2003, either under Article 11 of the Industrial Pollution Control Order 1997 (1997 Order) for a variation of the conditions of the authorisation or to make application for a permit under regulation 10 of the 2003 Regulations.

Regulation 4 contains transitional provisions for waste installations, which by virtue of these Regulations becomes a Part A installation or mobile plant.

Regulation 5 makes a number of amendments to the 2003 Regulations. These include a revision of section 5.1 of Part 1 of Schedule 1 (which describes the waste incineration installations which are subject to the PPC Regulations); amendments to the transitional timetable in Schedule 3 and the requirements in Schedule 4 and 7 which apply to waste incineration installation; and an addition to the list of information in Schedule 10 which is required to be kept on the public register maintained under the Regulations.

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