

---

STATUTORY RULES OF NORTHERN IRELAND

---

**2003 No. 46**

**The Pollution Prevention and Control  
Regulations (Northern Ireland) 2003**

**PART 1**

**GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Pollution Prevention and Control Regulations (Northern Ireland) 2003 and shall come into operation on 31 March 2003.

**Interpretation: general**

2.—(1) The Interpretation Act (Northern Ireland)(1) 1954 shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations, except in so far as the context otherwise requires—

“change in operation” means, in relation to an installation or mobile plant, a change in the nature or functioning or an extension of the installation or mobile plant which may have consequences for the environment; and “substantial change in operation” means, in relation to an installation or mobile plant, a change in operation which, in the opinion of the enforcing authority, may have significant negative effects on human beings or the environment;

“chief inspector” means the inspector constituted to be the chief inspector under regulation 8(3);

“the Department” means the Department of the Environment;

“the Directive” means Council Directive 96/61/EC concerning integrated pollution prevention and control(2);

“emission” means—

- (i) in relation to Part A installations, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in an installation into the air, water or land;
- (ii) in relation to Part B installations, the direct release of substances or heat from individual or diffuse sources in an installation into the air;
- (iii) in relation to Part C installations, the direct release of substances or heat from individual or diffuse sources in an installation into the air;
- (iv) in relation to Part A mobile plant, the direct or indirect release of substances, vibrations, heat or noise from the mobile plant into the air, water or land;

---

(1) 1954 c. 33 (NI)

(2) OJNo. L 257, 10.10.96, p.26

(v) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air;

(vi) in relation to Part C mobile plant, the direct release of substances or heat from the mobile plant into the air;

“emission limit value” means the mass, expressed in terms of specific parameters, concentration or level of an emission, which may not be exceeded during one or more periods of time;

“enforcement notice” has the meaning given by regulation 24(1);

“enforcing authority” means, in relation to the exercise of functions under these Regulations, the authority, either the chief inspector or district council, by whom, under regulation 7, the functions are exercisable;

“general binding rules” has the meaning given by regulation 14(1);

“inspector” means a person appointed under regulation 8(1) or (5);

“installation” means—

(i) a stationary technical unit where one or more activities listed in Part 1 of Schedule 1 are carried out; and

(ii) any other location on the same site where any other directly associated activities are carried out which have a technical connection with the activities carried out in the stationary technical unit and which could have an effect on pollution,

and, other than in Schedule 3, references to an installation include references to part of an installation;

“mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise and which is used to carry out one or more activities listed in Part 1 of Schedule 1;

“off-site condition” has the meaning given by regulation 12(12);

“operator”, subject to paragraph (3), means, in relation to an installation or mobile plant, the person who has control over its operation;

“Part A installation”, “Part B installation” and “Part C installation” shall be interpreted in accordance with Part 3 of Schedule 1;

“Part A mobile plant”, “Part B mobile plant” and “Part C mobile plant” shall be interpreted in accordance with Part 3 of Schedule 1;

“permit” means a permit granted under regulation 10;

“Planning Appeals Commission” means the Planning Appeals Commission established under Article 110 of the Planning (Northern Ireland) Order 1991(3);

“pollution” means emissions as a result of human activity which may be harmful to human health or the quality of the environment, cause offence to any human senses, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment; and “pollutant” means any substance, vibration, heat or noise released as a result of such an emission which may have such an effect;

“prescribed” means prescribed by regulations;

“revocation notice” has the meaning given by regulation 21(1);

“specified waste management activity” means any one of the following activities—

(i) the disposal of waste in a landfill, whether or not the disposal falls within Section 5.2 of Part 1 of Schedule 1;

- (ii) the disposal of waste falling within Section 5.3 of that Part of that Schedule;
- (iii) the recovery of waste falling within paragraphs (i), (ii), (v) or (vii) of paragraph (c) of Part A of Section 5.4 of that Part of that Schedule;

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“substance” includes any chemical element and its compounds and any biological entity or micro-organism, with the exception of radioactive substances within the meaning of Council Directive 80/836/Euratom(4), genetically modified micro-organisms within the meaning of Council Directive 90/219/EEC(5) and genetically modified organisms within the meaning of Council Directive 90/220/EEC(6);

“suspension notice” has the meaning given by regulation 25(1);

“variation notice” has the meaning given by regulation 17(5).

(3) For the purposes of these Regulations–

- (a) where an installation or mobile plant has not been put into operation, the person who will have control over the operation of the installation or mobile plant when it is put into operation shall be treated as the operator of the installation or mobile plant;
- (b) where an installation or mobile plant has ceased to be in operation, the person who holds the permit which applies to the installation or mobile plant shall be treated as the operator of the installation or mobile plant.

(4) In these Regulations–

- (a) a reference to a release into water includes a release into a sewer (within the meaning of Article 2(2) of the Water and Sewerage Services (Northern Ireland) Order 1973)(7);
- (b) a reference to a Council Directive is a reference to that Directive together with any amendment made before the date on which these Regulations are made.

(5) Part 1 of Schedule 1 shall be interpreted in accordance with the provisions as to interpretation in Parts 1 and 2 of that Schedule.

### **Interpretation: “best available techniques”**

3.—(1) For the purpose of these Regulations, “best available techniques” means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole; and for the purpose of this definition–

- (a) “available techniques” means those techniques which have been developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the cost and advantages, whether or not the techniques are used or produced inside the United Kingdom, as long as they are reasonably accessible to the operator;
- (b) “best” means, in relation to techniques, the most effective in achieving a high general level of protection of the environment as a whole;
- (c) “techniques” includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.

---

(4) OJ No. L 246, 17.9.80, p.1, as amended by Council Directive 84/467/Euratom (OJ No. L 265, 5.10.84, p.4)

(5) OJ No. L 117, 8.5.90, p.1

(6) OJ No. L 117, 8.5.90, p.15

(7) S.I. 1973/70 (NI 2)

(2) Schedule 2 shall have effect in relation to the determination of best available techniques.

### **Fit and proper person**

4.—(1) This regulation applies for the purpose of the discharge of any function under these Regulations which requires the chief inspector to determine whether a person is or is not a fit and proper person to carry out a specified waste management activity.

(2) Whether a person is or is not a fit and proper person to carry out a specified waste management activity shall be determined by reference to the fulfilment of the conditions of the permit which apply or will apply to the carrying out of that activity.

(3) Subject to paragraph (4), a person shall be treated as not being a fit and proper person if it appears to the chief inspector that—

- (a) he or another relevant person has been convicted of a relevant offence;
- (b) the management of the specified waste management activity which is or is to be carried out is not or will not be in the hands of a technically competent person; or
- (c) the person who holds or is to hold the permit has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the permit in relation to the specified waste management activity.

(4) The chief inspector may, if he considers it proper to do so in any particular case, treat a person as a fit and proper person notwithstanding that paragraph (3)(a) applies in his case.

(5) For the purposes of paragraph (3), “relevant offence” means an offence under any of the following enactments—

- (a) section 114 of the Public Health (Ireland) Act 1878<sup>(8)</sup>;
- (b) section 98(3) or (4) of the Local Government Act (Northern Ireland) 1972<sup>(9)</sup>;
- (c) Article 5, 7(4), 16(4), 18(2), 29, 38(4), 56, or 72(3) of the Pollution Control and Local Government (Northern Ireland) Order 1978<sup>(10)</sup>;
- (d) the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981<sup>(11)</sup>;
- (e) section 9(1) of the Food and Environment Protection Act 1985<sup>(12)</sup>;
- (f) the Transfrontier Shipment of Hazardous Waste Regulations 1988<sup>(13)</sup>;
- (g) the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988<sup>(14)</sup>;
- (h) the Transfrontier Shipment of Waste Regulations 1994<sup>(15)</sup>;
- (i) paragraph 15(1), (3), (4) or (5) of Schedule 5 to the Finance Act 1996<sup>(16)</sup>;
- (j) Article 4, 5(8), 22(6), 38(1), 42, 43(9), 44(2), or 74 of the Waste and Contaminated Land (Northern Ireland) Order 1997<sup>(17)</sup>;
- (k) Article 23(1) of the Industrial Pollution Control (Northern Ireland) Order 1997<sup>(18)</sup>;
- (l) The Special Waste Regulations (Northern Ireland) 1998<sup>(19)</sup>;

---

<sup>(8)</sup> 1878 c. 52

<sup>(9)</sup> 1972 c. 9

<sup>(10)</sup> S.I. 1978/1049 (NI 19)

<sup>(11)</sup> S.R. 1981 No. 252

<sup>(12)</sup> 1985 c. 48

<sup>(13)</sup> S.I. 1988/1562

<sup>(14)</sup> S.I. 1988/2292

<sup>(15)</sup> S.I. 1994/1137

<sup>(16)</sup> 1996 c. 8

<sup>(17)</sup> S.I. 1997/2778 (NI 19)

<sup>(18)</sup> S.I. 1997/2777 (NI 18)

<sup>(19)</sup> S.R. 1998 No. 289

- (m) Article 7(1), 9(1), 28(3) or 29 of the Water (Northern Ireland) Order 1999(20);
- (n) regulation 33(1) of these Regulations.

(6) In paragraph (3)(a), “another relevant person” means, in relation to the holder or proposed holder of a permit—

- (a) any person who has been convicted of a relevant offence committed by him in the course of his employment by the holder or proposed holder of the permit or in the course of the carrying on of any business by a partnership one of the members of which was the holder or proposed holder of the permit;
- (b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder of the permit was a director, manager, secretary or other similar officer of that body corporate; or
- (c) where the holder or proposed holder of the permit is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate and who—
  - (i) has been convicted of a relevant offence; or
  - (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a relevant offence of which that other body corporate has been convicted was committed.

### **Application to the Crown**

5.—(1) Subject to the provisions of this regulation, these Regulations bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) No contravention by the Crown of any provision of these Regulations shall make the Crown criminally liable under regulation 33 and no proceedings may be taken against the Crown under regulation 34 but the High Court may, on the application of the enforcing authority charged with enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), the provisions of these Regulations shall apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any specified powers of entry exercisable under regulation 27, that it is requisite or expedient that, in the interests of national security, the powers of entry should not be exercisable in relation to the premises, those powers shall not be exercisable in relation to those premises; and in this paragraph “specified” means specified in the certificate and “Crown premises” means premises held or used by or on behalf of the Crown.

(5) Any reference to the Crown in this regulation includes the Crown in right of Her Majesty’s Government in the United Kingdom.

### **Applications**

6.—(1) An enforcing authority may require any application or type of application made to it under any provision of these Regulations to be made on a form made available by the enforcing authority.

(2) A form made available by an enforcing authority under paragraph (1) shall specify the information required by the enforcing authority to determine the application, which shall include any information required to be contained in the application by the provision of these Regulations under which the application is made.

(3) Where an enforcing authority makes available a form under paragraph (1) in relation to the making of applications to it under a provision of these Regulations any application made to it under that provision shall be made on that form.

(4) Any application made under these Regulations may, with the agreement of the enforcing authority, be sent to the enforcing authority electronically.

(5) Where an application which is required to be accompanied by a fee, map or plan is sent electronically, the fee, map or plan may be sent to the enforcing authority separately from the application but the application shall not be treated as having been received by the enforcing authority until the fee, map or plan has also been received.

(6) An application made under these Regulations may be withdrawn at any time before it is determined.

### **Discharge and scope of functions**

7.—(1) This regulation determines the authority by whom the functions conferred or imposed by these Regulations on an enforcing authority are exercisable and the purposes for which they are exercisable.

(2) Those functions, in their application to a Part A installation or Part A mobile plant, shall be functions of the chief inspector and shall be exercisable for the purpose of achieving a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land.

(3) Those functions, in their application to a Part B installation or Part B mobile plant, shall be functions of the chief inspector and shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(4) Those functions, in their application to a Part C installation, shall be functions of the district council in whose district the installation is (or will be) situated and shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(5) Those functions, in their application to a Part C mobile plant, shall be functions of—

- (a) where the operator of the mobile plant has his principal place of business in Northern Ireland, the district council in whose district that place of business is;
- (b) where the operator of the mobile plant has his principal place of business outside of Northern Ireland and the mobile plant is not covered by a permit, the district council in whose district the plant is first operated or, where the plant has not been operated in Northern Ireland, the district council in whose district it is intended by the operator that the plant should first be operated;
- (c) where the operator has his principal place of business outside of Northern Ireland and the mobile plant is covered by a permit, the district council which granted the permit,

and shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(6) The Department may, as respects functions under these Regulations exercisable by a district council specified in the direction, direct that those functions shall be exercised instead by the chief inspector while the direction remains in force or during a period specified in the direction.

(7) A transfer of functions under paragraph (6) to the chief inspector relating to Part C installations or Part C mobile plant does not make them exercisable by the chief inspector for any other purpose than that mentioned in paragraphs (4) and (5).

(8) The Department may, as respects functions under these Regulations exercisable by the chief inspector in respect of Part B installations specified in the direction, direct that those functions shall

be exercised instead by a district council while the direction remains in force or during a period specified in the direction.

(9) A direction under paragraph (6) may transfer functions exercisable by a district council in relation to all or any description of installations or mobile plant (a “general direction”) or in relation to a specific installation or mobile plant specified in the direction (a “specific direction”) but a direction under paragraph (8) may only be a specific direction.

(10) A direction under paragraph (6) or (8) may include such saving and transitional provisions as the Department considers necessary or expedient.

(11) The Department, on giving or withdrawing a general direction under paragraph (6), shall—

- (a) serve notice of it on the chief inspector and on the district councils affected by the direction; and
- (b) cause notice of it to be published as soon as practicable in the Belfast Gazette and in at least two newspapers circulating in the district of each district council affected by the direction,

and any such notice shall specify the date on which the direction is to take (or took) effect and (where appropriate) its duration.

(12) The Department, on giving or withdrawing a specific direction under paragraph (6) or (8), shall—

- (a) serve notice on the chief inspector, the district council and the operator or the person appearing to the Department to be the operator of the installation or mobile plant affected; and
- (b) cause notice of it to be published in the Belfast Gazette and in at least two newspapers circulating in the district council’s district,

and any such notice shall specify the date on which the direction is to take (or took) effect and (where appropriate) its duration.

(13) The requirements of sub-paragraph (b) of paragraph (11), or, as the case may be, sub-paragraph (b) of paragraph (12) shall not apply in any case where, in the opinion of the Secretary of State, the publication of the notice in accordance with that sub-paragraph would be contrary to the interests of national security.

(14) It shall be the duty of enforcing authorities to follow developments in best available techniques.

### **Appointment of chief inspector and other inspectors**

**8.—(1)** The Department may appoint as inspectors (under whatever title the Department may determine) such persons having suitable qualifications as the Department thinks necessary for carrying these Regulations into effect, and may terminate any appointment made under this paragraph.

(2) The Department may make to, or in respect of, any person so appointed such payments by way of remuneration, allowances or otherwise as the Department may determine.

(3) The Department shall constitute one of the inspectors appointed under paragraph (1) to be the chief inspector.

(4) The functions conferred or imposed by or under these Regulations on the chief inspector as the enforcing authority may, to any extent, be delegated by him to any other inspector appointed under paragraph (1).

(5) A district council may appoint as inspectors (under whatever title the council may determine) such persons having suitable qualifications as the council thinks necessary for carrying these Regulations into effect in the council’s district, and may terminate any appointment made under this paragraph.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

(6) An inspector shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under Regulation 26 or 27 if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.