
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under Article 4 of the [Environment \(Northern Ireland\) Order 2002 \(2002 No. 3153 \(N.I. 17\)\)](#), implement in Northern Ireland the amendments to the public participation provisions in Directive [96/61/EC](#) made by Article 4 of Directive [2003/35/EC](#) providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives [85/337/EEC](#) and [96/61/EC](#) (the Public Participation Directive). They also make other miscellaneous amendments to the Pollution Prevention and Control Regulations ([S.R. 2003 No. 46](#)) (the 2003 Regulations).

The requirements of Directive [96/61/EC](#) concerning integrated pollution prevention and control have been implemented in Northern Ireland by means of the Pollution Prevention and Control Regulations ([S.R. 2003 No. 46](#)) (the 2003 Regulations).

These Regulations amend regulation 2 and the procedures for public participation in Schedules 4 (Grant of Permits) and 7 (Variation of Conditions) to the 2003 Regulations in order to implement the additional public participation requirements in paragraphs 1 to 3, 5 and 6 of Article 4 of the Public Participation Directive. These requirements apply to all applications for permits to operate new Part A installations and to variations authorising substantial changes in operation of a Part A installation or variations resulting from a review by the enforcing authority of a Part A installation under regulation 15(2)(a) of the 2003 Regulations.

Regulation 2(2) inserts a new paragraph (2B) in regulation 2 of the 2003 Regulations (Interpretation: general) to expand the definition of “substantial change in operation” as required by paragraph 1(a) of Article 4 of the Public Participation Directive.

Regulation 2(3) inserts a new paragraph (3A) in regulation 37 of the 2003 Regulations (Directions to enforcing authorities) to make information relating to decisions made in other Member States available to those people affected in Northern Ireland, as required by Article 17(4) of the Public Participation Directive.

Regulation 2(4) makes other miscellaneous amendments to Part 1 of Schedule 1 (Activities) to the PPC Regulations. In particular, Regulation 2(4)(d) inserts a new paragraph (i) in Part A of Section 5.1 (Incineration and Co-Incineration of Waste) adding another category relating to incineration and co-incineration of waste.

Regulation 2(5) amends Section 6.4 of the table in paragraph 2(2) of Part 1 of Schedule 3 (Prescribed Date and Transitional Arrangements).

Regulation 2(6) amends Schedule 4 of the 2003 Regulations, which sets out the procedures for the application and determination of permits made under regulation 10 of those Regulations. In particular—

- (i) Regulation 2(6)(a) adds a new sub-paragraph (oo) to the list of information specified in paragraph 1 of Schedule 4 which needs to be provided with the application;
- (ii) Regulations 2(6)(b) to (l) extend the public participation requirements in Parts 1 and 2 of Schedule 4 to apply the new requirements in Article 4 of the Public Participation Directive to applications for permits to operate new Part A installations, within the meaning of paragraph 6 of Part 1 of Schedule 3 to the 2003 Regulations;

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- (iii) Regulations 2(6)(b) and (c) provide for additional advertisement requirements in respect of applications for permits to operate new Part A installations;
- (iv) Regulations 2(6)(f) to (l) amend the provisions in Part 1 and 2 of Schedule 4 to provide for a new “draft determination” stage, which includes additional obligations to advertise, to inform other Member States in the case of installations with transboundary effects, to allow for representations from interested parties, and to provide or make available the additional information in Annex V Public Participation Directive.

Regulation 2 (7) amends Schedule 7 to the 2003 Regulations, which sets out the procedures for the variation of conditions of permits under regulation 17 of those Regulations. In particular—

- (i) Regulations 2(7)(a) to (i) extend the public participation requirements in Parts 2 of Schedule 7 (Determination of Applications for Variations and Variation Notices) to apply the new requirements in Article 4 of the Public Participation Directive to—
 - (aa) variations authorising substantial changes in the operation of Part A installations; and
 - (bb) variations in the conditions of a permit to operate a Part A installation proposed by the enforcing authority and resulting from a review under regulation 15(2)(a) of the 2003 Regulations;
- (ii) Regulation 2(7)(a) amends paragraph 4 of Schedule 7 to the 2003 Regulations to require the enforcing authority to furnish the operator with additional information as well as to provide for additional advertisement requirements in respect of variations affecting the operation of Part A installations;
- (iii) Regulations 2(7)(b) to (i) insert, for variations affecting Part A installations, a new “post-advertisement” stage in respect of variations proposed by the enforcing authority and a “draft variation” stage in respect of applications for variations, including, as in the case of applications for permits to operate Part A installations, additional obligations in relation to advertising, the provision of information to other Member States in the case of installations with transboundary effects, new representation requirements, and the obligation to provide or make available information specified in Annex V to the Public Participation Directive.

Regulation 2 (8) inserts a new sub-paragraph to Schedule 10 (Registers) to require the enforcing authority to include in the register the information resulting from the new public participation requirements specified by these Regulations.

Regulation 3 sets out transitional provisions clarifying that the requirements in these Regulations do not apply to applications for permits or variations or proposed variations in respect of which the operator applied, or the enforcing authority notified to the operator, at a date prior to the date of coming into operation of these Regulations.