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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 85**

**The Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015**

**PART 4**

**CONDITIONS FOR WASTE FACILITIES**

**Financial guarantee**

**8.—**(1) No operations involving the management of extractive waste shall commence until a financial guarantee is provided by the operator to the council.

(2) The purpose of the financial guarantee shall be to ensure that—

- (a) all conditions on the planning permission pertaining to the management of extractive waste, including after-closure conditions, are met; and
- (b) there are funds readily available at any given time for the rehabilitation of the land affected by the waste facility, as described in the waste management plan.

**Construction and management**

**9.—**(1) In the construction and management of a new waste facility or the modification of an existing waste facility, it shall be ensured that—

- (a) the facility is suitably located taking into account in particular [<sup>F1</sup>obligations under national legislation or retained EU law] relating to protected areas, and geological, hydrological, hydrogeological, seismic and geotechnical factors;
- (b) the facility is designed so as to meet the necessary requirements for, in the short and long term perspectives, preventing pollution of the soil, air, groundwater or surface water in accordance with [<sup>F2</sup>any law implementing Directives 2006/118/EC and 2000/60/EC] and ensuring efficient collection of contaminated water and leachate and reducing erosion, caused by water or wind, as far as it is technically possible and economically viable;
- (c) the facility is suitably constructed, managed and maintained to ensure its physical stability and to prevent pollution or contamination of soil, air, surface water or groundwater in the short and long term perspectives as well as to minimise as far as possible damage to landscape;
- (d) there are suitable plans and arrangements for regular monitoring and inspection of the facility by competent persons and for taking action in the event of results indicating instability or water or soil contamination and that in relation to such monitoring and inspections—
  - (i) reports of the monitoring and inspections are kept in order to ensure the appropriate hand-over of information, particularly in the event of a change of operator,

- (ii) reports are made to the council, at a frequency to be determined by it, but in any event no less than once a year, of all monitoring results on the basis of aggregated data, and
  - (iii) where the council decides that such reports need to be validated by an independent expert, such expert shall be allowed access to the facility to conduct appropriate monitoring and all reasonable requirements of the expert shall be complied with;
  - (e) suitable arrangements are made for the rehabilitation of the land and the closure of the facility;
  - (f) suitable arrangements are made for the after-closure phase of the facility;
  - (g) the management of the facility is undertaken by a competent person;
  - (h) technical development and training of staff involved in the management of the facility is provided; and
  - (i) up-to-date records are kept of all waste management operations, which are made available for inspection by the council on request.
- (2) In the event of a change of operator during the management of the waste facility it shall be ensured that there is a transfer of relevant up-to-date information and records relating to the waste facility.
- (3) Where any events likely to affect the stability of the waste facility or any significant adverse environmental effects revealed by the control and monitoring procedures are identified—
- (a) the council shall be notified without undue delay and no later than 48 hours after those events or effects;
  - (b) the internal emergency plan shall be implemented, where applicable;
  - (c) any instruction from the council as to the corrective measures to be taken shall be followed; and
  - (d) the operator shall be liable for the costs of the measures undertaken.

- F1** Words in [reg. 9\(1\)\(a\)](#) substituted (31.12.2020) by [The Planning \(Environmental Assessments and Miscellaneous Amendments\) \(EU Exit\) \(Northern Ireland\) Regulations 2018 \(S.I. 2018/1235\)](#), [regs. 1\(2\)](#), [6\(6\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in [reg. 9\(1\)\(b\)](#) substituted (31.12.2020) by [The Planning \(Environmental Assessments and Miscellaneous Amendments\) \(EU Exit\) \(Northern Ireland\) Regulations 2018 \(S.I. 2018/1235\)](#), [regs. 1\(2\)](#), [6\(6\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

### **Prevention of water status deterioration, air and soil pollution**

**10.**—(1) Documentary evidence shall be provided to the council, both prior to the commencement of operations involving the management of extractive waste and during such operations, demonstrating, where applicable, compliance with [<sup>F3</sup>any law that implements] Directive [2000/60/EC](#) through, inter alia—

- (a) the evaluation of the leachate generation potential, including contaminant content of the leachate, of the deposited waste during the operational phase of the facility and determining the water balance of that facility;
- (b) prevention or minimisation of leachate generation and surface water or groundwater and soil from being contaminated by the waste;
- (c) collection and treatment of contaminated water and leachate from the waste facility to the appropriate standard required for their discharge; and

- (d) the taking of adequate measures, based on best available techniques, to prevent or reduce dust and gas emissions.
- (2) Where extractive waste is to be disposed of, whether in solid, slurry or liquid form, into any receiving body of water other than one constructed for the purpose of disposing of extractive waste, documentary evidence shall be submitted to the council to demonstrate compliance with [<sup>F4</sup>any law implementing Directives [2006/118/EC](#) and [2000/60/EC](#)].
- (3) Where extractive waste is to be placed back into extractive voids, whether created through surface or underground extraction, which will be allowed to flood after-closure, documentary evidence shall be submitted to the council to demonstrate—
- (a) that when the extractive waste is so placed, the necessary measures shall be taken to prevent or minimise water status deterioration and soil pollution in accordance with paragraphs (1)(a), (b) and (c), insofar as applicable; and
- (b) [<sup>F5</sup>compliance with environmental obligations in retained EU law, in particular any law which implements [Directive 2000/60/EC](#)];
- (4) Where a pond involving the presence of cyanide is to be managed, documentary evidence to demonstrate—
- (a) that the concentration of weak acid dissociable cyanide in the pond is or will be reduced to the lowest possible level using best available techniques; and
- (b) that the concentration of weak acid dissociable cyanide at the point of discharge of the tailings from the processing plant into the pond does not exceed 10 parts per million,
- shall be submitted to the council.
- (5) Upon request in writing to the council it shall be demonstrated, through a risk assessment that takes site-specific conditions into account, that the concentration limits need to be lowered below 10 parts per million.

- F3** Words in [reg. 10\(1\)](#) inserted (31.12.2020) by [The Planning \(Environmental Assessments and Miscellaneous Amendments\) \(EU Exit\) \(Northern Ireland\) Regulations 2018 \(S.I. 2018/1235\)](#), regs. 1(2), [6\(7\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in [reg. 10\(2\)](#) substituted (31.12.2020) by [The Planning \(Environmental Assessments and Miscellaneous Amendments\) \(EU Exit\) \(Northern Ireland\) Regulations 2018 \(S.I. 2018/1235\)](#), regs. 1(2), [6\(7\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F5** [Reg. 10\(3\)\(b\)](#) substituted (31.12.2020) by [The Planning \(Environmental Assessments and Miscellaneous Amendments\) \(EU Exit\) \(Northern Ireland\) Regulations 2018 \(S.I. 2018/1235\)](#), regs. 1(2), [6\(7\)\(c\)](#); 2020 c. 1, Sch. 5 para. 1(1)

## Closure

- 11.**—(1) Closure of the waste facility shall not commence until the following requirements are satisfied—
- (a) the conditions relating to the management of extractive waste are met; and
- (b) an authorisation for closure notice is issued by the council.
- (2) The waste facility shall not be regarded as closed until the council has issued a final closure notice.

## After-closure

- 12.** Following closure of the waste facility, where the council considers it necessary, and for as long as may be specified in a final closure notice—

- (a) maintenance, monitoring, control and corrective measures shall be undertaken;
- (b) the physical and chemical stability of the facility shall be controlled and any negative environmental effects shall be minimised in order to fulfil relevant environmental requirements as set out in [<sup>F6</sup>any law implementing Directives 2006/118/EC and 2000/60/EC], in particular with respect to surface and groundwater, by ensuring that—
  - (i) all the structures pertaining to the facility are monitored and conserved, with control and measuring apparatus always ready for use, and
  - (ii) where applicable, overflow channels and spillways are kept clean and free;
- (c) the leachate generation potential, including contaminant content of the leachate, of the deposited waste shall be evaluated, and the water balance of the waste facility shall be determined;
- (d) measures shall be taken to ensure—
  - (i) the prevention or minimisation of leachate generation and surface water or groundwater and soil from being contaminated by the waste, and
  - (ii) contaminated water and leachate from the waste facility shall be collected and treated to the appropriate standard required for their discharge;
- (e) the council shall be notified of any events or developments likely to affect the stability of the waste facility and of any significant adverse environmental effects revealed by the after-closure and monitoring procedures and where applicable—
  - (i) the internal emergency plan shall be implemented,
  - (ii) any instructions from the council as to the corrective measures to be taken shall be followed, and
  - (iii) liability for the costs of implementing the internal emergency plan and taking the corrective measures shall rest with the operator;
- (f) all monitoring results shall be reported to the council on the basis of aggregated data, at a frequency to be determined by it.

**F6** Words in reg. 12(b) substituted (31.12.2020) by [The Planning \(Environmental Assessments and Miscellaneous Amendments\) \(EU Exit\) \(Northern Ireland\) Regulations 2018 \(S.I. 2018/1235\)](#), regs. 1(2), **6(8)**; 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

There are currently no known outstanding effects for the The Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015, PART 4.