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STATUTORY INSTRUMENTS

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**2002 No. 3153**

**The Environment (Northern Ireland) Order 2002**

**PART II**

**POLLUTION PREVENTION AND CONTROL**

*Regulation of polluting activities*

**Purpose of Article 4**

3. The purpose of Article 4 is to enable provision to be made for or in connection with—
- (a) implementing Council Directive 96/61/EC concerning integrated pollution prevention and control;
  - (b) regulating, otherwise than in pursuance of that Directive, activities which are capable of causing any environmental pollution;
  - (c) otherwise preventing or controlling emissions capable of causing any such pollution.

**Regulation of polluting activities**

4.—(1) The Department may by regulations make provision for any of the purposes listed in Part I of Schedule 1; and Part II of that Schedule has effect for supplementing Part I.

(2) In accordance with Article 3, the provision which may be made by regulations under this Article is provision for or in connection with any of the matters mentioned in paragraphs (a) to (c) of that Article.

(3) Regulations under this Article may contain such consequential, incidental, supplementary, transitional or saving provisions (including provisions amending, repealing or revoking statutory provisions) as the Department considers appropriate.

- (4) Before making any regulations under this Article, the Department shall consult—
- (a) district councils and such bodies or persons appearing to it to be representative of the interests of district councils as it may consider appropriate;
  - (b) such bodies or persons appearing to it to be representative of the interests of industry, agriculture and business as it may consider appropriate; and
  - (c) such other bodies or persons as it may consider appropriate.

(5) Consultation undertaken before the coming into operation of this Article shall constitute as effective compliance with paragraph (4) as if undertaken thereafter.

(6) Regulations under this Article, if made without a draft having been laid before and approved by a resolution of, the Assembly, shall be subject to negative resolution.

(7) No regulations to which this paragraph applies shall be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly

- (8) Paragraph (7) applies to—

- (a) the first regulations to be made under this Article;
- (b) regulations under this Article containing any provision which creates an offence or increases a penalty for an existing offence;
- (c) regulations under this Article containing any provision which amends or repeals any Northern Ireland legislation.

*Waste management: site licences*

**New transitional provisions for disposal licences treated as site licences**

5.—(1) Article 47 of the [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(NI 19\)](#) (transitional provisions in connection with the commencement of Part II of that Order) shall be amended as follows.

(2) In paragraph (2) for the words “for a period of 3 years from the relevant appointed day for licences” there shall be substituted the words “in accordance with Article 6(10)”.

(3) In paragraph (3) for the words “for a period of 3 years from the relevant appointed day for resolutions” there shall be substituted the words “in accordance with Article 6(10)”.

**Disposal licences which expire before commencement of waste management licensing**

6.—(1) This Article applies where—

- (a) a disposal licence under Article 7 of the 1978 Order expires at a time (“the time of expiry”) falling after the relevant day but before the appointed day (so that it is not converted into a site licence by Article 47 of the 1997 Order); and
- (b) relevant activities have taken place at a time falling after the time of expiry (whether before or after the making of this Order).

(2) The licence shall for all purposes be deemed—

- (a) not to have expired; and
- (b) to have been subsisting on the appointed day and (accordingly) to have become on that day a site licence by virtue of Article 47(2) of the 1997 Order.

(3) The terms and conditions of the licence as continued in force by paragraph (2) shall, except so far as providing for the expiry of the licence and subject to paragraph (4)(b) and (c), be such as were in force immediately before the time of expiry (unless and until varied under Part II of the 1997 Order).

(4) Without prejudice to the generality of paragraph (2)—

- (a) activities carried out during the interim period which (by virtue of paragraph (2)) become authorised by the licence shall be treated as authorised at the time they were carried out (even though at that time their being carried out amounted to a contravention of Article 5(1) of the 1978 Order);
- (b) anything done in relation to the licence before the time of expiry but purporting to take effect after that time (such as the serving of a notice under Article 9 of the 1978 Order, specifying a time falling during or after the interim period) shall be treated as having had (or having) effect as if the licence had not in fact expired
- (c) anything which during the interim period purported to be done in relation to the licence (such as a modification, revocation, transfer or cancellation of the licence, the exercise of functions under Article 11 of the 1978 Order or the bringing or determination of an appeal) shall be treated as having had effect as if the licence had then been in force;

- (d) any fees which (by virtue of paragraph (2)) are treated as having become payable before the appointed day shall be taken to have become payable at the time they would have become payable had the licence not in fact expired; and
  - (e) the holder of the licence shall be treated as having been an authorised person for the purposes of Article 5(1) of the 1997 Order during the interim period (or so much thereof as falls after the coming into operation of Article 5(1)).
- (5) Nothing in this Article affects any criminal proceedings in which the accused has been convicted before the coming into operation of this Article.
- (6) The district council by which a licence affected by this Article was issued shall notify the holder of the licence—
- (a) of the fact that the licence is so affected; and
  - (b) of how it is so affected.
- (7) For the purposes of this Article “relevant activities”, in relation to a licence, are—
- (a) any activities authorised by the licence or, in the case of an expired licence, any which would have been authorised by it had it not expired, and
  - (b) any precautions or works required by the licence to be taken or carried out in connection with or in consequence of those activities or, in the case of an expired licence, any which would have been so required had the licence not expired.
- (8) In this Article—
- “the 1978 Order” means the [Pollution Control and Local Government \(Northern Ireland\) Order 1978 \(NI 19\)](#);
- “the 1997 Order” means the [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(NI 19\)](#);
- “the appointed day”, in relation to a licence, means the day which in relation to that licence is (or would have been if the licence had not previously expired) the relevant appointed day for licences (within the meaning of Article 47 of the 1997 Order);
- “the interim period”, in connection with a licence in relation to which this Article applies, means the period beginning with the time of expiry and ending immediately before the appointed day
- “the relevant day” means the day falling one year before the day on which this Order is made;
- “site licence” has the same meaning as in the 1997 Order.

#### *Financial assistance by Department*

### **Financial assistance by Department**

- 7.—(1) The Department may make grants to any body having among its objects—
- (a) the furtherance of the objectives of the strategy in relation to the recovery and disposal of waste prepared by the Department under Article 19 of the [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(NI 19\)](#); or
  - (b) the prevention or control of environmental pollution.
- (2) Grants under this Article shall be made—
- (a) in accordance with arrangements approved by the Department of Finance and Personnel; and
  - (b) subject to such conditions as the Department may determine (including conditions for repayment in specified circumstances).

### *Supplementary*

#### **Interpretation of this Part**

**8.—(1) In this Part—**

“activities” means activities of any nature, whether—

- (a) industrial or commercial or other activities, or
- (b) carried on on particular premises or otherwise,

and includes (with or without other activities) the depositing, keeping or disposal of any substance;

“environmental pollution” means pollution of the air, water or land which may give rise to any harm; and for the purposes of this definition (but without prejudice to its generality)—

- (a) “pollution” includes pollution caused by noise, heat or vibrations or any other kind of release of energy, and
- (b) “air” includes air within buildings and air within other natural or man-made structures above or below ground.

(2) In the definition of “environmental pollution” in paragraph (1), “harm” means—

- (a) harm to the health of human beings or other living organisms;
- (b) harm to the quality of the environment, including—
  - (i) harm to the quality of the environment taken as a whole,
  - (ii) harm to the quality of the air, water or land, and
  - (iii) other impairment of, or interference with, the ecological systems of which any living organisms form part
- (c) offence to the senses of human beings;
- (d) damage to property; or
- (e) impairment of, or interference with, amenities or other legitimate uses of the environment (expressions used in this paragraph having the same meaning as in Council Directive [96/61/EC](#)).