

SCHEDULES

SCHEDULE 7

VARIATION OF CONDITIONS

PART 1

APPLICATIONS FOR VARIATION OF CONDITIONS

7.—(1) The Department may give directions to the enforcing authority requiring that any particular application under regulation 19(2) or any class of such applications shall be referred to it for determination pending a further direction under sub-paragraph (13).

(2) The enforcing authority shall inform the operator of the fact that his application is being referred to the Department and forward to the Department any representations which have been made to the enforcing authority within the period allowed.

(3) Where an application for the variation of the conditions of a permit is referred to it under sub-paragraph (1) the Department may afford the operator and the enforcing authority an opportunity of appearing before and being heard by a person appointed by it (the “appointed person”) and it shall do so in any case where a request is duly made by the operator or the enforcing authority to be so heard.

(4) A request under sub-paragraph (3) shall be in writing and shall be made within the period of 21 days beginning with the day on which the operator is informed that his application is being referred to the Department.

(5) A hearing held under sub-paragraph (3) shall, if the appointed person so decides, be held wholly or to any extent directed by the appointed person, in private.

(6) Where the Department causes a hearing to be held under sub-paragraph (3), it shall give the operator and the enforcing authority at least 28 days notice (or such shorter period of notice as they may agree) of the date, time and place fixed for the holding of the hearing.

(7) In the case of a hearing under sub-paragraph (3) which is to be held wholly or partly in public, the Department shall, at least 21 days before the date fixed for the holding of the hearing—

(a) where the application relates to the operation of an installation or Part A mobile plant, publish a copy of the notice mentioned in sub-paragraph (6) in at least two newspapers circulating in the locality in which the installation or mobile plant is operated; and

(b) serve a copy of that notice on every person required to be notified under paragraph 5(3) (b) and on every person who made representations to the enforcing authority with respect to the subject matter of the application.

(8) The Department may vary the date fixed for the holding of any hearing under sub-paragraph (3) and sub-paragraphs (6) and (7) shall apply to the variation of a date as they applied to the date originally fixed.

(9) The Department may also vary the time or place for the holding of a hearing under sub-paragraph (3) and shall give such notice of any variation as appears to it to be reasonable.

(10) The persons entitled to be heard at a hearing under sub-paragraph (3) are—

(a) the operator;

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Northern Ireland Statutory Rule: The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 No. 160

(b) the enforcing authority; and

(c) any person required under paragraph 5(3)(b) to be notified of the application.

(11) Nothing in sub-paragraph (10) shall prevent the appointed person from permitting any other persons to be heard at the hearing and such permission shall not be unreasonably withheld.

(12) After the conclusion of a hearing, the appointed person shall make a report in writing to the Department which shall include his conclusions and recommendations or his reasons for not making any recommendations.

(13) The Department shall, on determining any application referred to it under this paragraph, give to the enforcing authority such a direction as it thinks fit as to whether the enforcing authority is to vary the conditions of the permit and, if so, as to the conditions that are to be attached to the permit by means of the variation notice.