

SCHEDULES

SCHEDULE 7

VARIATION OF CONDITIONS

PART 3

TRANSBOUNDARY NOTIFICATION

17. Where the Department is aware that an application or a proposal to serve a variation notice mentioned in paragraphs 5(1) or 12(1) relates to a substantial change in the operation of an installation carrying out activities listed in Annex I of the IED in Northern Ireland which is likely to have significant negative effects on the environment of another Member State, or where another Member State likely to be significantly affected so requests, the Department shall forward—

- (a) a copy of the application or proposed variation notice and a copy of the advertisement made under paragraphs 6(1) or 14(1); and
- (b) where applicable, a copy of the draft determination in respect of that application together with a copy of the advertisement made under paragraph 9,

to the other Member State at the same time as the application, proposed variation notice or draft determination notice is advertised pursuant to paragraphs 6(1), 14(1) or 9 (or as soon as it becomes so aware or receives such a request, if it becomes so aware or receives such a request after the application, proposed variation notice or draft determination is advertised but before the application is determined or the proposed variation notice is served) in order that the application, draft determination or proposed variation notice may serve as the basis for any consultations necessary in the framework of the bilateral relations between the United Kingdom and the other Member State on a reciprocal and equivalent basis, as referred to in Article 26 of the IED.

18. Where an application or proposal to serve a variation notice is forwarded to another Member State pursuant to paragraph 17, the Department shall notify the operator of the installation concerned and the chief inspector and—

- (a) the chief inspector shall not determine the application or provide his draft determination (where the application has not been referred to the Department under paragraph 7) or serve the variation notice until the Department has notified him in writing that the bilateral consultations required by paragraph 17 have been completed and has forwarded to him any representations duly made on the application or proposed variation by persons in the other Member State which have been forwarded to the Department; and,
- (b) in the case of an application to be determined by the chief inspector, the period within which to determine the application or to provide a draft determination set out in paragraph 8(2)(a) shall begin on the day on which the chief inspector receives the Department's notification that the bilateral consultations have been completed.

19. In determining an application or before serving a variation notice which has been forwarded to another Member State pursuant to paragraph 17, the chief inspector, or, in the case of an application, the Department if the application has been referred to it, shall take into consideration any representations duly made in the other Member State which have been forwarded to the Department.

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

20. Any representations on the draft determination made in the Member State to which the draft determination has been sent, which have been received by the Department within the period of 22 working days from the date of the Department's receipt of the draft determination from the enforcing authority, shall be forwarded to the enforcing authority within the period of 3 working days beginning on the day after that period ends.

21.—(1) For the purposes of this Schedule “working day” means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971⁽¹⁾

(2) in paragraphs 17 to 20, “Member State” shall be taken to include Norway, Iceland and Liechtenstein.

⁽¹⁾ 1971 c.80