

## SCHEDULE 3

Regulations 9 and 10(13)

## PRESCRIBED DATE AND TRANSITIONAL ARRANGEMENTS

## PART 1

## PART A INSTALLATIONS AND MOBILE PLANT

1. The prescribed date for a new Part A installation or new Part A mobile plant is—
- (a) where an application for a permit to operate the installation or mobile plant is duly made before 1<sup>st</sup> January 2004, the determination date for the installation or mobile plant;
  - (b) where no such application is made, 1<sup>st</sup> January 2004.

2.—(1) Subject to paragraph 4, the prescribed date for an existing Part A installation or existing Part A mobile plant is—

- (a) where an application for a permit to operate the installation or mobile plant is duly made within the relevant period (or before the beginning of the relevant period where allowed under paragraph 5), the determination date for the installation or mobile plant;
- (b) where no such application is made, the day after the date on which the relevant period expires.

(2) For the purpose of sub-paragraph (1) the relevant period for an existing Part A installation or existing Part A mobile plant is the period specified for that description of installation or mobile plant in the following table—

<i>Any installation where an activity falling within the following Section of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</i>	<i>Relevant Period</i>
Section 1.1	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 1.2	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 2.1	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 2.2	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 2.3	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 3.1	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 3.2	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 3.3	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 3.4	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 3.5	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 3.6	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 4.1	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 4.2	1 <sup>st</sup> – 30 <sup>th</sup> April 2006

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<i>Any installation where an activity falling within the following Section of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</i>	<i>Relevant Period</i>
Section 4.3	1 <sup>st</sup> – 30 <sup>th</sup> September 2005
Section 4.4	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 4.5	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 4.6	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 4.7	1 <sup>st</sup> – 30 <sup>th</sup> September 2005
Section 5.1	1 <sup>st</sup> – 30 <sup>th</sup> September 2005
Section 5.2	1 <sup>st</sup> January – 31 <sup>st</sup> March 2007
Section 5.3	1 <sup>st</sup> – 30 <sup>th</sup> September 2005
Section 5.4	1 <sup>st</sup> – 30 <sup>th</sup> September 2005
Section 5.5	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 6.1 (a) – (c)	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 6.1 (d)	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 6.2	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 6.3	1 <sup>st</sup> – 30 <sup>th</sup> September 2005
Section 6.4	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 6.6	1 <sup>st</sup> – 30 <sup>th</sup> April 2006
Section 6.7	1 <sup>st</sup> – 31 <sup>st</sup> July 2004
Section 6.8 paragraphs (a), (b) and (c)	1 <sup>st</sup> – 28 <sup>th</sup> February 2005
Section 6.8 paragraphs (d), (e) and (f)	1 <sup>st</sup> – 30 <sup>th</sup> September 2005
Section 6.9	1 <sup>st</sup> November 2006 to 31 <sup>st</sup> January 2007

(3) For the purpose of sub-paragraph (2), where an activity falls within a description in Part A of more than one Section of Part 1 of Schedule 1 it shall be regarded as falling only within that description which fits it most aptly.

(4) Subject to sub-paragraph (5), where more than one activity falling within Part A of any Section in Part 1 of Schedule 1 is carried out in an existing Part A installation or using an existing Part A mobile plant, the relevant period for that installation or mobile plant shall be the period beginning with the earliest date listed against one of those activities in the table in sub-paragraph (2).

(5) Where more than one activity falling within Part A of any Section in Part 1 of Schedule 1 is carried out in an existing Part A installation, the operator of the installation may apply to the chief inspector to determine that the relevant period for the installation shall not be the period determined

by sub-paragraph (4) but the later period listed in the table in sub-paragraph (2) against the primary activity of the installation.

(6) An application under sub-paragraph (5) shall be in writing and shall—

- (a) identify the installation concerned;
- (b) list the activities falling within Part A of any Section in Part 1 of Schedule 1 which are carried out in the installation;
- (c) identify which of those activities the operator considers to be the primary activity, and shall be submitted at least 3 months before the beginning of the period which would be the relevant period for the installation concerned under sub-paragraph (4).

(7) Where the chief inspector receives a duly made application under sub-paragraph (5) he shall, if he agrees with the operator that the activity identified pursuant to sub-paragraph (6)(c) is the primary activity, serve notice of this determination on the operator, and the period listed against that activity in sub-paragraph (2) shall be the relevant period for the installation.

(8) Where the chief inspector does not agree with the operator as mentioned in sub-paragraph (7) he shall serve notice of this determination on the operator and the relevant period for the installation shall be the period determined by sub-paragraph (4).

(9) The chief inspector shall serve notice of his determination of any application made under sub-paragraph (5) within 2 months of receiving the application.

(10) Where there is more than one operator of an installation, an application under sub-paragraph (5) shall be made by the operators of the installation jointly and the references in sub-paragraphs (6) to (8) to the operator shall be construed as a reference to all of the operators.

(11) For the purpose of sub-paragraphs (5) to (9) the primary activity of an installation is the activity the carrying out of which constitutes the primary purpose for operating the installation.

3. For the purpose of paragraphs 1 and 2, where separate applications are made to operate different parts of a Part A installation—

- (a) the date by which applications have been made in relation to all parts of the installation shall be treated as the date on which an application for a permit to operate the installation is made;
- (b) an application for a permit to operate the installation shall only be treated as having been duly made if each of the separate applications are duly made;
- (c) the determination date for the installation shall be, in relation to each part of the installation which is covered by a separate application, the determination date for that part of the installation.

4.—(1) Where there is a substantial change in the operation of an existing Part A installation on or after 31 October 1999 and before 1<sup>st</sup> January 2004 the prescribed date for that part of the installation affected by the change shall be—

- (a) where an application for a permit authorising the operation of that part of the installation is duly made before 1<sup>st</sup> January 2004, the determination date for that part of the installation;
- (b) where no such application is made, 1<sup>st</sup> January 2004.

(2) Where there is a substantial change in the operation of an existing Part A installation on or after 1<sup>st</sup> January 2004, the prescribed date for that part of the installation affected by the change shall be the date on which the change is made if earlier than the date which would be the prescribed date for the installation under paragraph 2.

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5.—(1) Subject to sub-paragraph (2), an application for a permit to operate an existing Part A installation or Part A mobile plant shall not be made before the beginning of the relevant period for that installation or mobile plant without the consent of the chief inspector.

(2) Where an operator of an existing Part A installation proposes to make a substantial change in the operation of the installation he may make an application before the beginning of the relevant period for a permit to operate that part of the installation that will be affected by the substantial change.

6. In this Part of this Schedule –

“determination date” means–

- (a) for an installation, part of an installation or mobile plant in relation to which a permit is granted, the date on which it is granted, whether in pursuance of the application for the permit or following an appeal;
- (b) for an installation, part of an installation or mobile plant in relation to which a permit is refused and the applicant for the permit appeals against the refusal, the date of the determination of the appeal refusing the permit;
- (c) for an installation, part of an installation or mobile plant in relation to which a permit is refused and no appeal is made against the refusal, the date immediately following the last day, determined in accordance with paragraph 2 of Schedule 9, on which notice of appeal might have been given;

“existing” means, in relation to a Part A installation or a Part A mobile plant–

- (a) an installation or mobile plant which is put in to operation before 31<sup>st</sup> October 1999; or
- (b) an installation or mobile plant which is put into operation on or after that date but before 31<sup>st</sup> October 2000, provided that–
  - (i) the operation of the installation or mobile plant was authorised by the relevant authorisation before 31<sup>st</sup> October 1999; or
  - (ii) an application for such authorisation was duly made before that date;

“new” means, in relation to a Part A installation or a Part A mobile plant, an installation or plant which is put into operation on or after 31<sup>st</sup> October 1999 other than an existing Part A installation or Part A mobile plant;

“relevant authorisation” means, in relation to the operation of a Part A installation or Part A mobile plant–

- (a) where the operation of the installation or mobile plant immediately before 31<sup>st</sup> October 1999 requires an authorisation under the Industrial Pollution Control (Northern Ireland) Order 1997(1), an authorisation under that Order;
- (b) where the operation of the installation or mobile plant immediately before 31<sup>st</sup> October 1999 requires a disposal licence under the Pollution Control and Local Government (Northern Ireland) 1978(2), a disposal licence under that Order;
- (c) in any other case, planning permission granted under the Planning (Northern Ireland) Order 1991(3);

“relevant period” shall be interpreted in accordance with paragraph 2.

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(1) S.I. 1997/2777 (NI 18)  
(2) S.I. 1978/1049 (NI 19)  
(3) S.I. 1991/1220 (NI 11)

## PART 2

### PART B AND PART C INSTALLATIONS AND MOBILE PLANT

7. The prescribed date for a new Part B or Part C installation or a new Part B or Part C mobile plant is the relevant date for that installation or mobile plant.

8. The prescribed date for an existing Part B or Part C installation or existing Part B or Part C mobile plant is the determination date for that installation or mobile plant.

9.—(1) Subject to the following provisions of this paragraph, no application for a permit to operate an existing Part B or Part C installation or existing Part B or Part C mobile plant shall be made to the enforcing authority.

(2) Where an operator of a Part B or Part C installation or a Part B or Part C mobile plant proposes to put the installation or mobile plant into operation during the period of six months ending on the relevant date for the installation or mobile plant, he may make an application for a permit to operate that installation or mobile plant.

(3) The operator of an existing Part B or Part C installation or existing Part B or Part C mobile plant shall, unless he has made an application to operate the installation or mobile plant under sub-paragraph (2), be deemed to have made an application for a permit to operate that installation or mobile plant on the relevant date for that installation or mobile plant.

(4) Where sub-paragraph (3) applies in relation to an existing Part B or Part C installation and different parts of the installation are operated by different operators, each operator shall be deemed to have made an application to operate that part of the installation which he operates.

(5) Schedule 4 shall not apply to a deemed application under sub-paragraph (3).

(6) The enforcing authority shall give notice of its determination of a deemed application under sub-paragraph (3) to the applicant within the period of 12 months beginning with the date on which the application is deemed to have been made and if the enforcing authority fails to give notice of its determination within that period the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

(7) Where sub-paragraph (3) applies the enforcing authority shall, within 2 months of the date on which the application is deemed to have been made, notify the operator of the installation or mobile plant of the deemed application and of the requirements of sub-paragraph (6).

(8) Where separate applications are deemed to have been made under sub-paragraph (4) to operate different parts of a Part B or Part C installation the prescribed date for the installation shall be, in relation to each part of the installation covered by a separate application, the determination date for that part of the installation.

10. For the purpose of this Part of this Schedule the relevant date for a Part B installation or a Part B mobile plant is 1<sup>st</sup> April 2008.

11.—(1) For the purpose of this Part of this Schedule the relevant date for Part C installation or Part C mobile plant is the date specified for that description of installation or mobile plant in the following table—

<i>Any installation where an activity falling within Part C of the following Sections of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</i>	<i>Relevant Date</i>
Section 1.1	1 <sup>st</sup> April 2004

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<i>Any installation where an activity falling within Part C of the following Sections of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</i>	<i>Relevant Date</i>
Section 1.2	1 <sup>st</sup> April 2005
Section 2.1	1 <sup>st</sup> April 2006
Section 2.2	1 <sup>st</sup> April 2006
Section 3.1	1 <sup>st</sup> April 2004
Section 3.5	1 <sup>st</sup> April 2004
Section 3.6	1 <sup>st</sup> April 2005
Section 5.1	1 <sup>st</sup> April 2006
Section 6.4	1 <sup>st</sup> April 2006
Section 6.5	1 <sup>st</sup> April 2007
Section 6.6	1 <sup>st</sup> April 2005
Section 6.7	1 <sup>st</sup> April 2006
Section 6.8	1 <sup>st</sup> April 2006

(2) For the purpose of sub-paragraph (1), where an activity falls within a description in Part C of more than one Section of Part 1 of Schedule 1 it shall be regarded as falling only within that description which fits it most aptly.

(3) Where more than one activity falling within Part C of any Section in Part 1 of Schedule 1 is carried out in an existing Part C installation or using an existing Part C mobile plant, and the activities have different relevant dates, the relevant date for that installation or mobile plant shall be the earliest of those dates.

12. In this Part of this Schedule—

“determination date” means—

- (a) for an installation, part of an installation or mobile plant in relation to which a permit is granted, the date on which it is granted, whether in pursuance of the application for the permit or following an appeal;
- (b) for an installation, part of an installation or mobile plant in relation to which a permit is refused and the applicant for the permit appeals against the refusal, the date of the determination of the appeal refusing the permit;
- (c) for an installation, part of an installation or mobile plant in relation to which a permit is refused and no appeal is made against the refusal, the date immediately following the last day, determined in accordance with paragraph 2 of Schedule 9, on which notice of appeal might have been given;

“existing” means, in relation to a Part B or Part C installation or Part B or Part C mobile plant, an installation or mobile plant which is put into operation before the relevant date for that installation or mobile plant;

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“new” means, in relation to a Part B or Part C installation or Part B or Part C mobile plant, an installation or mobile plant which is put into operation on or after the relevant date for that installation or mobile plant;

“relevant date” shall be interpreted in accordance with paragraphs 10 and 11.