

SCHEDULE 4

Regulations 17(1) and 18

TRANSITIONAL PROVISIONS

Existing landfills: transitional provisions

- 1.—(1) Subject to paragraph 2(1), this paragraph shall apply to a landfill if –
 - (a) it is in operation on the relevant date; or
 - (b) it is not in operation on the relevant date but the relevant authorisation for its operation was granted before that date; or
 - (c) it was before the relevant date the subject of an appeal under the 1978 Order in respect of which a relevant authorisation was granted after the relevant date; or
 - (d) it was before the relevant date the subject of an appeal under the 1997 Order in respect of which a relevant authorisation was granted after the relevant date; or
 - (e) it was before the relevant date the subject of an application for a waste management licence; or
 - (f) it was before the relevant date the subject of an appeal in respect of an application for a waste management licence or in respect of a waste management licence under the Licensing Regulations
- (2) A landfill to which this paragraph applies which falls within paragraph (b) of Part A of section 5.2 in Part 1 of Schedule 1 to the 2003 Regulations shall be treated as an existing installation for the purposes of Part I of Schedule 3 to those Regulations.
- (3) The following provisions shall apply –
 - (a) where paragraph 1(1)(a) or (b) applies, if the operator proposes to accept waste after the relevant date, the operator shall prepare a conditioning plan for the landfill site and submit it to the Department by not later than the expiry of one month after the relevant date;
 - (b) where paragraph 1(1)(c)(d) or (f) applies, if the operator proposes to accept waste after the relevant date, the operator shall prepare a conditioning plan for the landfill site and submit it to the Department by not later than the expiry of one month after the determination of the relevant appeal;
 - (c) where paragraph 1(1)(e) applies, if the operator proposes to accept waste after the relevant date, the operator shall prepare a conditioning plan for the landfill site and submit it to the Department by not later than the expiry of one month after the grant of the licence under the Licensing Regulations;
 - (d) Notwithstanding the provisions in sub-paragraphs (b) and (c) in any case where the operator proposes to continue to accept waste during any period after the relevant date while any relevant appeal is pending the operator shall prepare a conditioning plan for the landfill site and submit it to the Department by not later than the expiry of one month after the relevant date.
- (4) The conditioning plan required by sub-paragraph (3) must –
 - (a) be prepared on a form provided for that purpose by the Department; and
 - (b) contain details of any corrective measures which the operator considers will be needed in order to comply with the relevant requirements of these Regulations.
- (5) If the operator does not propose to continue to accept waste after the relevant date, the operator shall notify the Department in writing by that date.
- (6) Subject to sub-paragraph (7), where –

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) the operator has notified the Department that it does not propose to accept waste for disposal after the relevant date;
- (b) the Department decides, following the submission by the operator of a conditioning plan, that there is no reasonable prospect of the landfill or part of it meeting the relevant requirements of these Regulations (such decision, and the reasons for it, to be set out in a notice served on the operator); or
- (c) the operator fails to submit a conditioning plan as required by sub-paragraphs (3) and (4) or to notify the Department that it does not propose to accept waste after the relevant date; or
- (d) the operator ceases to accept waste after the relevant date notwithstanding the submission by the operator of a site conditioning plan;

the Department shall ensure that closure of the landfill site (in whole or in part) takes place as soon as possible and the provisions of Regulation 15 (as modified by sub-paragraph (8)) shall apply to such closure.

(7) Where the operator proposes to continue to accept waste but fails to submit a conditioning plan in accordance with sub-paragraphs (3) and (4) the relevant authorisation shall cease to have effect so as to authorise the disposal of waste at the landfill, and the Department shall proceed with the closure of the landfill under sub-paragraph (6), unless and until a conditioning plan which complies with sub-paragraph 4 is submitted and the Department has agreed to consider it.

(8) In any case falling within sub-paragraph (6) –

- (a) regulation 15 shall apply as if –
 - (i) references to a landfill permit were references to a relevant authorisation;
 - (ii) where the relevant authorisation is a waste management licence or disposal licence, references to the operator were references to the licence holder;
 - (iii) where the relevant authorisation is a resolution, references to the operator were references to the council; and
 - (iv) in paragraph (6) after “Revocation of permits” there were inserted “and Articles 12 (Revocation and suspension of licences), Article 13 (Surrender of licences) and Article 16 (Supervision of licensed activities) of the 1997 Order; and
 - (v) references to the Chief Inspector were references to the Department
- (b) the Department shall, if necessary, by notice in writing served on the operator or, in the case of a waste management licence or disposal licence, the licence holder, or in the case of a resolution, the council, vary the conditions of the relevant authorisation so that –
 - (i) waste is no longer accepted for disposal on the whole or the relevant part of the landfill from such date as is specified in the notice; and
 - (ii) the closure and after-care procedures will operate in accordance with regulation 15.

(9) In any case where the whole of a landfill is not subject to closure under sub-paragraph (6), the Department shall by notice served on the operator specify the period (which shall not be less than six months) within which an application to the Chief Inspector must be made (accompanied by a copy of the conditioning plan) –

- (a) where no landfill permit is in force, for a landfill permit under regulation 10 of the 2003 Regulations; or
- (b) where a landfill permit is in force, for a variation of the permit under regulation 17(2) of the 2003 Regulations,

so that waste may continue to be accepted for disposal at the landfill.

(10) In any case falling within sub-paragraph (9)(b), if an application is not duly made to the Chief Inspector within the period specified in the notice served on the operator under that provision,

the landfill permit shall cease to authorise the disposal of waste at the landfill until the application is duly made.

(11) Where the Chief Inspector decides to grant or vary a landfill permit pursuant to an application made in accordance with sub-paragraph (9), the Chief Inspector shall specify the date or dates on which the permit conditions authorised or required by these Regulations shall take effect.

(12) The Department shall exercise its powers under sub-paragraph (9), and the Chief Inspector shall exercise his powers under sub-paragraph (11) –

- (a) on the basis of an assessment of environmental risks; and
- (b) with a view to achieving full compliance with the relevant requirements of these Regulations –
 - (i) as soon as possible; and
 - (ii) for landfills falling within Part A(a) of section 5.2 of Part I of Schedule 1 to the 2003 Regulations by the 31st March 2007 at the latest; and
 - (iii) for landfills falling within Part A(b) of section 5.2 of Part I of Schedule 1 to the 2003 Regulations by 16th July 2009.

(13) In this Schedule “the relevant requirements of these Regulations” do not include the requirements of paragraph 1 of Schedule 2.

(14) Regulation 9 (Prohibition of acceptance of certain wastes at landfills) shall impose obligations directly on the operator of any landfill specified in this paragraph

2.—(1) Paragraph 1 does not apply to a landfill if –

- (a) a relevant authorisation for its operation was granted on or after the coming into operation of the Licensing Regulations and before the relevant date; or
- (b) it falls within paragraph (b) of Part A of section 5.2 in Part 1 of Schedule 1 to the 2003 Regulations and a waste management licence for its operation was granted on or after the coming into operation of the Licensing Regulations and before the relevant date; or
- (c) the prescribed date determined in accordance with Schedule 3 to the 2003 Regulations for the installation at which the landfill activity is carried out is before the relevant date and an application for a landfill permit was duly made (but not determined) before that date.

(2) In any case falling within sub-paragraph (1)(b), the waste management licence shall have effect on or after the relevant date as if it were a landfill permit.

(3) In any case falling within sub-paragraph (1) the Department shall exercise its powers to vary the waste management licence disposal licence or resolution, and the Chief Inspector shall exercise his powers to vary the landfill permit (or determine the outstanding application) so that the relevant requirements of these Regulations are complied with as soon as possible in relation to the landfill in question.

(4) In any case falling within sub-paragraph (1)(c), where an application for a waste management licence is also outstanding on the relevant date, there shall be no obligation on the Department to determine the application for a waste management licence.

3.—(1) The Department shall by notice in writing served on the operator not later than the expiry of one month after the relevant date, classify any landfill which appears to it to require classification as a landfill for hazardous waste.

(2) If a landfill classified under sub-paragraph (1) as a landfill for hazardous waste ceases to accept hazardous waste in accordance with the conditioning plan required under paragraph 1(3), the Department may at any time before 16th July 2004 by notice in writing served on the operator revoke the classification made under sub-paragraph (1).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) The following provisions of these Regulations shall impose obligations directly on the operator of any landfill which is for the time being classified under sub-paragraph (1) as a landfill for hazardous waste pending determination of an application made pursuant to paragraph 1(9) –

- (a) on or after the relevant date, regulation 12 (Waste acceptance procedures); and
- (b) on or after 16th July 2004, regulation 10(1) and (2) (Waste which may be accepted in the different classes of landfill).

(4) For the purposes of applying regulation 9(1)(g) under sub-paragraph (3)(a)(i) in relation to the period beginning on the relevant date and ending on 15th July 2004, only the criteria in paragraph 1 of Schedule 1 are to be treated as relevant waste acceptance criteria.

(5) The operator of a landfill which is not classified as a landfill for hazardous waste shall only accept hazardous waste at that landfill on or after the relevant date in the circumstances specified in regulation 10(3)(c) and (4).

4.—(1) This paragraph shall apply to any landfill if –

- (a) it falls within paragraph (b) of Part A of section 5.2 in Part I of Schedule 1 to the 2003 Regulations; and
- (b) it has not been brought into operation by the relevant date but an application for a waste management licence or a disposal licence was duly made before that date.

(2) Paragraph 1 of Part I of Schedule 3 to the 2003 Regulations shall apply as if in sub-paragraphs (a) and (b) “the relevant date as specified in the 2003 Landfill Regulations” were substituted for “1st January 2004”.

(3) Anything duly done by or in relation to the application for a waste management licence shall be treated as if it had been duly done in relation to an application for a landfill permit.

(4) The Chief Inspector may give the applicant notice requiring him –

- (a) to provide such further information of any description specified in the notice; or
- (b) to take such further steps as it may require for the purpose of determining the application.