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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 252**

**The Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009**

**PART 2**

**Preventing environmental damage**

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**9.**—(1) An operator of an activity that creates an imminent threat of environmental damage, or an imminent threat of damage which there are reasonable grounds to believe will become environmental damage, shall immediately—

- (a) take all necessary steps to prevent the damage; and
- (b) in any case where the threat has not been dispelled despite the preventative measures taken, inform the enforcing authority of all relevant details.

(2) The enforcing authority may assess the threat and may serve a notice on the operator that—

- (a) describes the threat;
- (b) specifies the measures required to prevent the damage; and
- (c) requires the operator to take those measures, or measures at least equivalent to them, within the period specified in the notice.

(3) Failure to comply with paragraph (1) or a notice served under paragraph (2) is an offence.

**Preventing further environmental damage**

**10.**—(1) An operator of an activity that has caused environmental damage, or has caused damage where there are reasonable grounds to believe that the damage is or will become environmental damage, shall immediately—

- (a) take all necessary steps to prevent further damage, and
- (b) inform the enforcing authority of all relevant details.

(2) The enforcing authority may assess the damage and may serve a notice on the operator that—

- (a) describes the damage;
- (b) requires the operator to provide additional information on any damage that has occurred;
- (c) specifies the measures required to prevent further damage; and
- (d) requires the operator to take those measures, or measures at least equivalent to them, within the period specified in the notice.

(3) Failure to comply with paragraph (1) or a notice served under paragraph (2) is an offence.

**Action by the enforcing authority**

11. Any duty in this Part on the operator of an activity may be carried out by the enforcing authority instead of the operator—

- (a) in an emergency;
- (b) if the operator cannot be ascertained;
- (c) if the operator fails to comply with a notice; or
- (d) if the operator is not required to bear the costs under these Regulations.

**Costs**

12.—(1) An operator is liable for any reasonable costs incurred by the enforcing authority in taking any reasonable action to discharge any duty under regulation 11.

(2) An operator is also liable for the reasonable costs incurred by the enforcing authority in preparing any notice under this Part, or in monitoring compliance with such notice.

**Following instructions from a public authority**

13. When an operator acts in accordance with the instructions of a public authority, and as a result causes or threatens to cause environmental damage, and accordingly is obliged to take action under regulations 9 or 10, or if the enforcing authority takes action under regulation 11, then, unless the instruction related to an emission or incident caused by the operator’s own activities, the operator or the enforcing authority may recover the costs of actions under those Regulations from that public authority.