

2009 No. 361

ENVIRONMENTAL PROTECTION

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

Made - - - - - *6th November 2009*

Coming into operation - *14th December 2009*

The Department of the Environment, being a department designated (a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the environment, acting in exercise of the powers conferred upon it by that section, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Environmental Liability (Prevention and Remediation) (Amendment) Regulations (Northern Ireland) 2009 and come into operation on 14th December 2009.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(a) applies to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations—

“the Principal Regulations” means the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009(b).

Amendment of the Principal Regulations

3.—(1) The Principal Regulations shall be amended as follows:—

(2) After regulation 2, insert—

“**2A.** References in Schedule 2 to Community instruments are references to those instruments as amended from time to time.”

(3) In regulation 26(7)(b) for “under the authority of a warrant” substitute “under the authority of a warrant by virtue of Schedule 6”.

(4) In regulation 26(8) for “under the authority of a warrant” substitute “under the authority of a warrant by virtue of Schedule 6”.

(5) In regulation 29(1)(a) for “not exceeding level 5 on the standard scale” substitute “not exceeding the statutory maximum”.

(a) 1954 c.33 (N.I.)
(b) S.R. 2009 No. 252

(6) After Schedule 5 insert Schedule 1 as Schedule 6 to the Principal Regulations.

Sealed with the Official Seal of the Department of the Environment on 6th November 2009.



Maggie Smith

A senior officer of the Department of the Environment

SCHEDULE 1

Regulation 26

Issue of Warrants

1. If it is shown to the satisfaction of a lay magistrate on sworn information in writing—
 - (a) that there are reasonable grounds for the exercise in relation to any land of a relevant power; and
 - (b) that one or more of the conditions specified in paragraph 2 is fulfilled in relation to that land,

the lay magistrate may, by warrant, authorise an authorised person to exercise the power in relation to that land, in accordance with the warrant and, if need be, by reasonable force.

2. The conditions mentioned in paragraph 1 are—
 - (a) that the exercise of the power in relation to the land has been refused;
 - (b) that such a refusal is reasonably apprehended;
 - (c) that the land is unoccupied;
 - (d) that the occupier is temporarily absent from the land and the case is one of urgency; or
 - (e) that an application for admission to the land would defeat the object of the proposed entry.

Every warrant under this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009 (the “Principal Regulations”).

They make clear that any reference in Schedule 2 to Community instruments includes any future amendments to those instruments.

They include provisions for the issue of a warrant to an authorised person.

They amend the Penalties provision (regulation 29(a)) in respect of the formula to be used for determining the penalty to be applied on summary conviction.

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