2005 No. 285

ENVIRONMENTAL PROTECTION

The Pollution Prevention and Control (Amendment) and Connected Provisions (No. 2) Regulations (Northern Ireland) 2005

Made - - - - - *2nd June 2005*

Coming into operation *5th June 2005*

To be laid before Parliament under paragraph 7(3) of the Schedule to the Northern Ireland Act 2000

The Department of the Environment, in exercise of the powers conferred on it by Article 4 of the Environment (Northern Ireland) Order 2002(**a**), and of all other powers enabling it in that behalf and, in accordance with Article 4(4) of that Order, having consulted district councils and such bodies or persons appearing to it to be representative of the interests of district councils as it considers appropriate, such bodies or persons appearing to it to be representative of the interests of industry, agriculture and business as it considers appropriate and such other bodies or persons as it considers appropriate, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pollution Prevention and Control (Amendment) and Connected Provisions (No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 5th June 2005.

Amendment to the Pollution Prevention and Control Regulations (Northern Ireland) 2003

2. The Pollution Prevention and Control Regulations (Northern Ireland) 2003(**b**) shall be amended as follows:

(1) In regulation 2 (Interpretation: general) –

(a) delete the definitions of "organic compound" and "volatile organic compound" or "VOC";

(b) delete the definition of "prescribed".

(2) In regulation 4 (fit and proper person) –

(a) for paragraph (5) substitute the following paragraph –

"(5) For the purposes of paragraph (3) –

(a) "relevant offence" means an offence prescribed for the purposes of Article 3(3)(a) of the Waste and Contaminated Land (Northern Ireland) Order 1997; and

(**a**) S.I. 2002/3153 (N.I. 7)

(**b**) S.R. 2003 No. 46 as amended by S.R. 2003 No. 390, S.R. 2003 No. 496, S.I. 2003/3311, S.R. 2004 No. 36 and S.R. 2004 No. 507

(b) the qualifications and experience required of a person for the purposes of Article 3(3)(b) of the Waste and Contaminated Land (Northern Ireland) Order 1997 which are prescribed under Article 3(5) of that Order shall be treated as the qualifications and experience required of a person for the purposes of paragraph (3)(d).";

(b) revoke paragraph (5)(A).

(3) In regulation 27 (Powers of inspectors and others), delete paragraph 7.

(4) Part 1 of Schedule 1 (Activities) shall be amended as follows –

(a) in Part C of Section 1.1 (Combustion Activities) –

(i) in paragraph (a), before the word "rated" insert the word "net" and after the words "but less than" insert the words "a rated thermal input of";

(ii) in paragraph (c) –

(aa) in sub-paragraph (i) after the words "but at least", insert the words "a net rated thermal input of";

(bb) in sub-paragraph (ii) after the words "where the aggregate" insert the words "net";

(b) in Section 1.2 (Gasification, Liquefaction and Refining Activities) –

(i) in Part A after paragraph (j) insert a new paragraph (k) as follows –

"(k) Odorising natural gas or liquefied petroleum gas where that activity is related to a Part A activity.";

(ii) under the heading "Interpretation of Part A" –

(aa) in paragraph 1 after the word "sewage" insert the words "or sewage sludge"; and

(bb) in paragraph 3 after the words "peat, rubber and wood" insert the words "(but does not include wood which has been chemically treated).";

(c) in Section 2.1 (Ferrous Metals) –

(i) in paragraph (b)(ii) of Part A , after the word "induction" insert the words ",vacuum, electro-slag";

(ii) in paragraph (b)(ii) of Part C , after the word "induction" insert the words ", electro-slag";

(d) in Part B of Section 4.1 (Organic Chemicals) –

(i) for paragraph (a) substitute the following paragraph –

"(a) Unless falling within Part A of this Section, any activity where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12 month period of 5 tonnes or more of any di-isocyanate or of any partly polymerised di-isocyanate or, in aggregate, or both.";

(ii) after paragraph (c) insert a new paragraph (d) as follows –

"(d) Unless falling within Part A of this Section, any activity involving the use of toluene di-isocyanate or partly polymerised di-isocyanate if –

(i) less than 1 tonne of toluene di-isocyanate monomer is likely to be used in any 12 month period;

(ii) the activity may result in a release into the air which contains toluene di-isocyanate.";

(e) in Part A of Section 4.2 (Inorganic Chemicals) –

(i) for paragraph (b), substitute the following paragraph –

"(b) Unless falling within another Section of this Schedule, any manufacturing activity (other than the manufacture of chemicals or glass or the coating, plating or surface treatment of metal) which involves the use and may result in the release into the air of any hydrogen halide or any manufacturing activity which uses, or which is likely to result in the release into the air or water of any of the compounds mentioned in paragraph (a)(vi), other than the treatment of water by chlorine.";

(ii) for paragraph (h) substitute the following paragraph –

"(h) Unless falling within another Section of this Schedule, any activity, other than the combustion or incineration of carbonaceous material as defined in the Interpretation of Part A of Section 1.2 of this Schedule, which is likely to result in the release into the air of any acid-forming oxide of nitrogen.";

(f) in Part A of Section 4.7 (Manufacturing Activities Involving Carbon Disulphide or Ammonia) –

(i) for paragraph (a) substitute the following paragraph –

"(a) Unless falling within paragraph (c) of Part A of Section 6.7 (Activities Involving Rubber), any manufacturing activity which may result in the release of carbon disulphide into the air.";

(ii) in paragraph (b), delete the words "involves the use of ammonia or";

(g) in Section 5.1 (Incineration and Co-incineration of Waste) –

(i) in Part A after paragraph (g) insert a new paragraph (h) as follows –

"(h) The incineration other than incidentally in the course of burning solid or liquid waste of any gaseous compound containing halogens, nitrogen or sulphur in a plant which is not an incineration plant or a co-incineration plant.";

(ii) in the definition of "excluded plant" under the heading "Interpretation of Section 5.1", for paragraph (viii) substitute the following paragraph –

"(viii) Animal carcases as regulated by Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products for human consumption; or";

(h) under the heading "Interpretation of Part A" in Section 5.3 (Disposal of Waste Other Than by Incineration or Landfill) for paragraph 3 substitute the following paragraph –

"3. Nothing in this Part applies to the treatment of –

(a) waste soil; or

(b) contaminated material, substances or products, for the purpose of remedial action with respect to land, underground strata or a waterway as defined in Article 2(2) of the Water (Northern Ireland) Order 1999,

by means of a mobile plant.";

(i) under the heading "Interpretation of Part A" in Section 5.4 (Recovery of Waste), for paragraph 2 substitute the following paragraph –

"2. Nothing in this Part applies to the treatment of –

(a) waste soil; or

(b) contaminated material, substances or products, for the purpose of remedial action with respect to land, underground strata or a waterway as defined in Article 2(2) of the Water (Northern Ireland) Order 1999,

by means of a mobile plant.";

(j) in paragraph (a)(ii) of Part A of Section 6.3 (Tar and Bitumen Activities) delete the words "or bitumen";

(k) in paragraph (a) of Part C of Section 6.6 (Timber Activities), after the word "drilling," insert the word "sanding,";

(l) in paragraph (2) of Part C of Section 7 (SED Activities) –

(i) after the definition of "manufacturing of pharmaceutical products" insert a new definition as follows –

" "organic compound" means any compound containing at least the element carbon and one or more of hydrogen, halogens, oxygen, sulphur, phosphorus, silicon or nitrogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates; ;

(ii) after the definition of "vehicle refinishing" insert a new definition as follows –

" "volatile organic compound" or "VOC" means –

(i) any organic compound having a vapour pressure of 0.01 kPa or more at 293.15K or having a corresponding volatility under the particular conditions of use, or

(ii) the fraction of creosote which exceeds a vapour pressure of 0.01 kPA at 293.15K;".

(5) In Part 2 of Schedule 1 (Interpretation of Part 1), after paragraph 3 insert a new paragraph as follows –

"3A. An activity shall not be taken to be an activity falling within Sections 1.1 to 6.9 of Part 1 if it is carried out at an installation or mobile plant solely used for research, development and testing of new products and processes.".

(6) In Part 3 of Schedule 1 (Interpretation of "Part A Installation" Etc), after paragraph 16 insert a new paragraph as follows –

"17. A Part C installation where an activity within Part C of Section 1.1 is carried out does not include any location where the associated storage, handling or shredding of tyres which are to be burned as part of that activity is carried out.".

(7) Schedule 3 (Prescribed Date and Transitional Arrangements), shall be amended as follows –

(a) in the table in paragraph 2(2) of Part 1 –

(i) for the words –

"Section 5.3	1st – 30th September 2005"

substitute the words –

"Section 5.3	1st November 2006 to 31st January 2007"

(b) in paragraph 2(6) delete the words "at least 3 months";

(c) in the definition of "determination date" in paragraph 6, after sub-paragraph (c) insert a new sub-paragraph (d) as follows –

"(d) for an installation, part of an installation or mobile plant in relation to which an application is withdrawn in accordance with regulation 6(6) or deemed to have been withdrawn in accordance with paragraph 4 of Schedule 4, the date the application is withdrawn, or deemed to have been withdrawn;";

(d) at the beginning of paragraph 8 insert "Subject to paragraph 8A";

(e) after paragraph 8 insert –

8A.—(1) Paragraph 9(3) shall not apply where the existing Part B or Part C installation or existing Part B or Part C mobile plant is not subject to a relevant authorisation where required.

(2) Where sub-paragraph (1) applies, the prescribed date for the existing Part B or Part C installation or existing Part B or Part C mobile plant shall be the relevant date for that installation or mobile plant."; and

(f) in paragraph 12, after the definition of "new" insert –

" "relevant authorisation" means, in relation to the operation of a Part B or Part C installation or Part B or Part C mobile plant –

(a) where the operation of the installation or mobile plant immediately before the relevant date for that installation or mobile plant requires an authorisation under the Industrial Pollution Control (Northern Ireland) Order 1997, an authorisation under that Order;

(b) where the operation of the installation or mobile plant immediately before the relevant date for that installation or mobile plant requires a disposal licence under the Pollution Control and Local Government (Northern Ireland) Order 1978, a disposal licence under that Order;

(c) in any other case, planning permission granted under the Planning (Northern Ireland) Order 1991;".

(8) Schedule 4 (Grant of Permits) shall be amended as follows –

(a) in paragraph 5, after the words "the date on which his application is" insert the word "duly";

(b) in sub-paragraph 1(B)(ii) for "VOC's" substitute "volatile organic compounds";

(c) in paragraph 5(a) for the words "two newspapers" substitute the words "one newspaper";

(d) in paragraph 9(1), for the words "receiving an application" substitute the words "receiving a duly made application";

(e) in paragraph 15 –

(i) in sub-paragraph (1), after the words "on which it received the" insert the words "duly made";

(ii) after sub-paragraph 2(c), insert a new sub-paragraph (d) as follows –

"(d) where separate applications are made to operate different parts of one installation, any period beginning with the date on which notice is served on any of the applicants under paragraph 4 and ending on the date on which the applicant furnishes the information specified in the notice.";

(f) for paragraph 21, substitute the following new paragraphs –

"21. The requirements of paragraph 9, other than paragraph 9(f), shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 31.

21A. Subject to paragraph 22 the requirements of paragraph 9(1)(b)(ii), (iii) and (iv) and (c), shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 32.".

(g) in paragraph 22, for the words "Paragraph 21" substitute the words "Paragraph 21A".

(9) Schedule 7 (Variation of Conditions), shall be amended as follows –

(a) in paragraph 4(8)(a) for the words "two newspapers" substitute the words "one newspaper";

(b) in paragraph 14, for the words "Paragraphs 21 and 22" substitute the words "Paragraphs 21, 21A and 22".

(10) In paragraph 1 of Schedule 10 (Registers) for sub-paragraphs (w) and (x) substitute the following sub-paragraphs –

"(w) all particulars of any conditioning plan submitted under paragraph 1(3) of Schedule 4 to the 2003 Landfill Regulations or notice given under paragraph 1(5) of that Schedule;

(x) all particulars of any notice of a decision under paragraph 1(6) of Schedule 4 to the Landfill Regulations;".

Amendments to the Industrial Pollution Control (Northern Ireland) Order 1997

3. In Article 6 of the Industrial Pollution Control (Northern Ireland) Order 1997(**a**) after paragraph (6B) insert a new paragraph (6C) as follows –

"(6C) An authorisation shall cease to have effect if and to the extent that the prescribed process covered by the authorisation is authorised by a permit granted under the Pollution Prevention and Control Regulations (Northern Ireland) 2003.".

Transitional Provisions

4.—(1) Where an application for a permit is made before the date of coming into operation of these Regulations in relation to an installation or mobile plant and by virtue of these Regulations –

(a) the installation or mobile plant is reclassified as falling within a different Part in any Section of Part 1 of Schedule 1 (Activities) to the 2003 Regulations; or

(b) the relevant period or the relevant date for the installation or mobile plant is deferred to a period or a date after the date of coming into operation of these Regulations,

anything duly done in relation to the application (including the grant of a permit) shall be treated as if it had been done in relation to an application for a permit made on or after the date of coming into operation of these Regulations.

(2) For the purposes of this regulation –

(**a**) S.I. 1997/2777 (N.I. 18)

(a) "the 2003 Regulations" means the Pollution Prevention and Control Regulations (Northern Ireland) 2003; and

(b) words and expressions which are used or defined in the 2003 Regulations shall have the same meaning as in those Regulations.

Revocation

5. The Pollution Prevention and Control (Amendment) and Connected Provisions Regulations (Northern Ireland) 2005(**a**) are hereby revoked.

Sealed with the Official Seal of the Department of the Environment on 2nd June 2005.

(L.S.) *Ian T. Maye*

A senior officer of the Department of the Environment

(**a**) S.R. 2005 No. 229

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pollution Prevention and Control Regulations (Northern Ireland) 2003 ("the PPC Regulations") and the Industrial Pollution Control (Northern Ireland) Order 1997.

Regulation 2(1)(a) removes the definitions of "organic compound" and "volatile organic compound" or "VOC" from the general interpretation section in regulation 2(2) of the PPC Regulations, and regulation 2(4)(l) inserts these definitions into Section 7 of Schedule 1 (SED Activities) to those Regulations.

Regulation 2(1)(b) deletes the definition of "prescribed" in regulation 2 of the PPC Regulations.

Regulation 2(2) amends the criteria for determining a fit and proper person under regulation 4 of the PPC Regulations.

Regulation 2(3) deletes paragraph 7 of regulation 27 of the PPC Regulations.

Regulation 2(4) amends Part 1 of Schedule 1 (Activities) to the PPC Regulations. In particular –

(a) Regulation 2(4)(c) transfers ferrous metals activities involving the operation of electro-slag furnaces from Part A to Part C of Section 2.1 (Ferrous Metals);

(b) Regulations 2(4)(d) to (f) insert further technical amendments to the activities specified in Sections 4.1 (Organic Chemicals), 4.2 (Inorganic Chemicals) and 4.7 (Manufacturing Activities Involving Carbon Disulphide or Ammonia);

(c) Regulation 2(4)(g) amends Section 5.1 (Incineration and Co-Incineration of Waste);

(d) Regulations 2(4)(h) and (i) extend the exclusions in Part A of Section 5.3 (Disposal of Waste Other Than by Incineration or Landfill) and Section 5.4 (Recovery of Waste) to certain activities involving the treatment of waste soil and contaminated material.

Regulation 2(5) amends Part 2 of Schedule 1 (Interpretation of Part 1) to the PPC Regulations to exclude certain activities carried out in installations or mobile plant used solely for research and development and testing of new products and processes.

Regulation 2(6) inserts a new provision into Part 3 of Schedule 1 (Interpretation of "Part A Installation" etc.) to the PPC Regulations.

Regulation 2(7) deals with amendments to the transitional arrangements in Schedule 3 (Prescribed Date and Transitional Arrangements) to the PPC Regulations and makes further provision with respect to the deemed application process in those Regulations.

Regulation 2(8) makes minor amendments to Schedule 4 (Grant of Permits) to the PPC Regulations.

Regulation 2(9) amends Schedule 7 (Variation of Conditions) to the PPC Regulations.

Regulation 2(10) makes amendments to the information to be contained in a register maintained under regulation 30 of the PPC Regulations.

Regulation 3 provides that an authorisation granted under the Industrial Pollution Control (Northern Ireland) Order 1997 will cease to have effect on the granting of a permit under the PPC Regulations to the extent to which it covers the same authorised process.

Regulation 4 deals with transitional provisions.

Regulation 5 revokes the Pollution Prevention and Control (Amendment) and Connected Provisions Regulations (Northern Ireland) 2005.

© Crown Copyright 2005

Published and printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly

Dd. N2164. C3. 6/05. Gp. 130. 14567.

£3·00

ISBN 0-337-96041-0

9 780337 960413