

WASTE MANAGEMENT (LICENSING) (AMENDMENT) REGULATIONS 1998

In exercise of the powers conferred on the Minister for the Environment and Local Government by sections 7 of the Waste Management Act, 1996 (No. 10 of 1996), which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 428 of 1997), I, Dan Wallace, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:—

REG 1

1. These Regulations may be cited as the Waste Management (Licensing) (Amendment) Regulations, 1998.

REG 2

2. The purposes for which these Regulations are made include the purpose of giving effect to provisions of the Council Directives specified in article 2 of the Waste Management (Licensing) Regulations, 1997 (S.I. No. 133 of 1997).

REG 3

3. The Waste Management (Licensing) Regulations, 1997 are hereby amended by—

(a) the substitution of the following sub-article for sub-article 3(3) —

"(3) In these Regulations, save where the context otherwise requires

—
"the Act" means the Waste Management Act, 1996;

"an application" means an application for a waste licence or for the review of a waste licence;

"applicant" means an applicant for a waste licence or for the review of a waste licence;

"certified facility" means a waste disposal facility the proposed development of which was certified by the Minister for the Environment and Local Government under Part IV of the Local Government (Planning and Development) Regulations, 1990 (S.I. No. 25 of 1990) or Part IX of the Local Government (Planning and Development) Regulations, 1994 (S.I. No. 86 of 1994);

"decontamination", in relation to PCBs, used PCBs and equipment containing PCBs, means any operation which enables equipment, objects, materials or fluids contaminated by PCBs to be recovered or disposed of without causing environmental pollution, including the replacement of PCBs by fluids which do not contain PCBs, and "decontaminated" shall be construed accordingly;

"development" has the meaning assigned to it in the Act of 1963;

"existing facility" shall be construed in accordance with sub-article (4);

"the Environmental Impact Assessment Regulations" means the European Communities, (Environmental Impact Assessment) Regulations, 1989 to 1996;

"Member State" means a Member State of the European Communities;

"objection" means an objection under section 42 of the Act;
"oral hearing" means an oral hearing under section 42 of the Act;

"party to the objection" means any of the following persons —

- (i) the objector,
- (ii) the applicant for a waste licence, or the licensee in the case of a review of a waste licence, in relation to which an objection is made by another person (other than a person acting on behalf of the applicant or licensee),

and "party" shall be construed accordingly;

"PCBs" means —

- (a) polychlorinated biphenyls,
- (b) polychlorinated terphenyls,
- (c) monomethyl-tetrachlorodiphenyl methane,
- (d) monomethyl-dichloro-diphenyl methane,
- (e) monomethyl-dibromo-diphenyl methane, or.
- (f) any mixture containing in excess of 0.005% by weight of any of the substances specified at (a) to (e);

"PCB contaminated equipment" means any equipment (including any transformer, power capacitor or receptacle containing residual stocks) which —

- (a) contains PCBs, or
- (b) having contained PCBs, has not been decontaminated;

"Planning and Development Regulations" means the Local Government (Planning and Development) Regulations, 1994 to 1997;

"planning permission" means a permission granted under Part IV of the Act of 1963;

"the register" means the register established by the Agency under section 19 of the Act;

"related waste operation" means, in relation to an activity the carrying on of which by a person requires a waste licence, any operation involving the holding, recovery or disposal of waste by or on behalf of the said person which is carried on in, on or adjacent to, the facility at which the said activity is carried on;

"review of a waste licence" means a review of a waste licence under section 46 of the Act;

"waste licence" means a waste licence for the purposes of Part V of the Act;

"waste oils" means any mineral-based lubrication or industrial oils which have become waste (including used combustion engine oils, gearbox oils, mineral lubricating oils, oils for turbines and hydraulic oils). ";

(b) the addition after sub-article 3(3) of the following sub-articles

—
"(4) In these Regulations, "existing facility" means, in relation to a date prescribed for the purposes of section 39(1) of the Act in relation to a waste recovery or disposal activity, a facility at which that activity was, at any time on or after the 1st day of May, 1996 and before the date so prescribed, carried on in accordance with a permit (where required) under the European Communities (Waste) Regulations, 1979, the European Communities (Toxic and Dangerous Waste) Regulations, 1982 or the European Communities (Waste Oils) Regulations, 1992, provided that a facility shall not be regarded as an existing facility in relation to the 20th day of May, 1998 unless there was in force, immediately before that date, a permit (where required) under the aforementioned Regulations.

(5) Any equipment of a type which is likely to contain PCBs shall, for the purposes of these Regulations, be considered as containing PCBs unless it is reasonable to assume the contrary.

(6) Where any part of a facility for the recovery or disposal of waste is located in an area which is not within the functional area of any local authority, the facility shall be deemed, for the purposes of these Regulations, to be a facility which is not located within the functional area of a local authority. ";

(c) the substitution of the following sub-article for sub-article 4(3) —

"(3) (a) Sub-article (1) shall not apply in respect of an activity at a facility connected with an activity for the time being specified in the First Schedule to the Act of 1992.

(b) Where a class of activity can be identified by reference to more than one class in column (1) of the First Schedule, the earliest date specified in column (2) of the First Schedule opposite the class of activity so identified in column (1) of the Schedule shall be the prescribed date for such activity for the purposes of section 39(1) of the Act.";

(d) the substitution for "section 40(2) (b) (ii) " in article 15 of "section 40(2) (b) ";

(e) the substitution for "articles 12, 13 and 16 " in article 15 of "articles 12, 13, 14 and 16 ";

(f) the addition after sub-article 18(3) of the following sub-article

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"(4) Without prejudice to sub-articles 16(2), 18(1) and 18(3), the Agency shall not be obliged to notify any person of the receipt by the Agency of plans, documents, or other information or particulars in accordance with articles 12, 13, 14 or 16. ";

(g) the deletion in sub-article 24(2) of paragraphs (d) and (e);

(h) the substitution of the following sub-articles for sub-article 41(2) —

"(2) Subject to sub-article (3), the fee payable under sub-article (1) shall be the amount indicated in column (2) of Part I of the Third Schedule opposite the relevant class of waste activity in column (1) of the said Part of the Schedule.

(3) Where a class of activity can be identified by reference to more than one class in column (1) of Part I of the Third Schedule, the only fee payable under sub-article (1) shall be the highest of the fees specified in column (2) of Part I of the Third Schedule opposite the class of activity so identified in column (1) of the Schedule. ";

(i) the substitution of the following sub-articles for sub-article 42(2) —

"(2) Subject to sub-article (3), the fee payable under sub-article (1) shall be the amount indicated in column (3) of Part I of the Third Schedule opposite the relevant class of waste activity in column (1) of the said Part of the Schedule.

(3) Where a class of activity is identified more than once in column (1) of Part I of the Third Schedule, the only fee payable under sub-article (1) shall be the highest of the fees specified in column (3) of Part I of the Third Schedule opposite the class of activity so identified in column (1) of the Schedule. ";

(j) the substitution for the First Schedule thereto of the First Schedule to these Regulations;

- (k) the substitution for the Second Schedule thereto of the Second Schedule to these Regulations; and
- (l) the substitution for Part I of the Third Schedule thereto of the Third Schedule to these Regulations.

FIRST SCHEDULE

Prescribed dates for the purpose of Section 39(1) of the Act

- Waste Activity Prescribed Date
- (1)(2)1. The disposal of waste at landfill (other than an existing facility). 1 May, 19972. The disposal of hazardous waste (other than at an existing facility) 1 May, 19973. The disposal of waste at a facility (other than an existing facility) where the annual intake exceeds 25,000 tonnes) 1 May, 19974. The disposal of waste at a certified facility 1 May, 19975. The disposal of waste at a landfill facility where the annual intake exceeds 40,000 tonnes per annum 1 October, 19976. The disposal of waste at a landfill facility where the annual intake exceeds 20,000 tonnes per annum 1 March, 19987. The disposal of waste at a landfill facility where the annual intake does not exceed 20,000 tonnes per annum, other than such a landfill operated by or on behalf of a county council, a county borough corporation, a borough corporation or an urban district council. 1 May, 19988. The disposal of waste at facility where the annual intake exceeds 25,000 tonnes per annum 1 May, 19989. The disposal of hazardous waste (other than at a landfill facility) 1 May, 1998
10. The recovery or disposal of waste at a facility (other than an existing facility) operated by or on behalf of a local authority 20 May, 199811. The recovery or disposal of waste at a facility (other than an existing facility) which is not located within the functional area of a local authority 20 May, 199812. The disposal of waste at a facility (other than an existing facility or a facility operated by or on behalf of a local authority) where the annual intake exceeds 5,000 tonnes per annum 20 May, 199813. The recovery of hazardous waste at a facility (other than an existing facility) 20 May, 199814. The composting of waste at a facility (other than an existing facility) where the amount of compost and waste held at the facility exceeds 1,000 cubic metres at any time 20 May, 199815. The disposal of waste (other than hazardous waste) at a facility (other than an existing facility, a landfill facility, a facility operated by or on behalf of a local authority or a facility which is not located within the functional area of a local authority) where the annual intake does not exceed 5,000 tonnes for an year 20 May, 199816. The recovery of waste (other than hazardous waste) at a facility (other than an existing facility, a facility operated by or on behalf of a local authority, a facility which is not located within the functional area of a local authority, or a facility for the composting of waste where at the facility exceeds 1000 cubic metres at any time) 20 May, 1998
17. The disposal of waste at a landfill facility operated by or on behalf of a county council, a county borough corporation, a borough corporation or an urban district council where the annual intake exceeds 5,000 tonnes per annum 1 October, 199818. The disposal of waste (other than hazardous waste) at a facility (other than a landfill facility, a facility operated by or on behalf of a local

authority or a facility which is not located within the functional area of a local authority) where the annual intake does not exceed 5,000 tonnes per annum¹ October, 1998¹⁹. The recovery of waste (other than hazardous waste) at a facility (other than a facility operated by or on behalf of a local authority, a facility which is not located within the functional area of a local authority, or a facility for the composting of waste where the amount of compost and waste held at the facility exceeds 1000 cubic metres at any time)¹ October, 1998²⁰. The disposal of waste at a landfill facility¹ March 1999²¹. The disposal of waste at a facility operated by or on behalf of a local authority¹ March, 1999²². The recovery of PCB contaminated equipment¹ March, 1999²³. The recovery of waste oils¹ March, 1999²⁴. The recovery or disposal of waste at a facility which is not located within the functional area of a local authority¹ March, 1999

25. The disposal of waste at a facility (other than a facility operated by or on behalf of a local authority) where the annual intake exceeds 5,000 tonnes per annum¹ October, 1999²⁶. The recovery of hazardous waste¹ October, 1999²⁷. The recovery of waste at a facility operated by or on behalf of a local authority¹ October, 1999²⁸. The composting of waste at a facility where the amount of compost and waste held at the facility exceeds 1,000 cubic metres at any time¹ October, 1999

SECOND SCHEDULE

Provisions of Community acts which are to be given effect to in relevant waste licences granted by the Agency.

Relevant ProvisionsCommunity act(1)(2)Articles 4, 6, 7, 10, 11 and 12Council Directive 75/439/EEC of 16 June, 1975 on the disposal of waste oils, as amended by Council Directive 87/101/EEC of 22 December, 1986.Articles 4, 5, 8, 9, 10 and 18Council Directive 80/68/EEC of 17 December, 1979 on the protection of groundwater against pollution caused by certain dangerous substances.Article 8Council Directive 87/217/EEC of 19 March, 1987 on the prevention and reduction of environmental pollution by asbestos.Articles 2.2 to 2.4 and 4.3Council Directive 91/689/EEC of 12 December, 1991 on hazardous waste.Articles 3, 9 and 18.2Council Directive 96/61/EC of 24 September, 1996 concerning integrated pollution prevention and control.Articles 4(6), 8(2) and 9.Council Directive 96/59/EC of 16 September, 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls

THIRD SCHEDULE

PART I

Fees payable to the Agency in respect of an application for a waste licence or the review of a waste licence, or for the surrender of a licence.

Waste ActivityAmount of fee for an application for a waste licenceAmount of fee for a review of a waste licence(1)(2)(3)1. The disposal of waste at a landfill facility where the annual intake is likely to exceed 100,000 tonnes^{18,000}^{13,000}2. The disposal of waste

at landfill facility where the annual intake is likely to exceed 40,000 tonnes but be less than 100,000 tonnes 16,000 12,000 3. The disposal of waste at a landfill facility where the annual intake is likely to exceed 20,000 tonnes but be less than 40,000 tonnes 13,000 10,000 4. The disposal of waste at a landfill facility where the annual intake is likely to exceed 5,000 tonnes but be less than 20,000 tonnes 10,000 8,000 5. The disposal of waste at a landfill facility where the annual intake is likely to be less than 5,000 tonnes 5,000 3,000 6. The disposal of hazardous waste 16,000 12,000 7. The disposal of waste (other than hazardous waste) at a facility (other than a landfill facility) where the annual intake exceeds or is likely to exceed 100,000 tonnes 10,000 7,000 8. The disposal of waste (other than hazardous waste) at a facility (other than a landfill facility) where the annual intake is likely to exceed 25,000 tonnes but be less than 100,000 tonnes 6,000 5,000 9. The disposal of waste (other than hazardous waste) at a facility (other than a landfill facility) where the annual intake is less than 25,000 tonnes per annum 5,000 3,000 10. The recover of waste 5,000 3,000

Dated this 19th day of May, 1998

DAN WALLACE

Minister of State at the Department of the Environment and Local Government

EXPLANATORY NOTE

These Regulations amend the Waste Management (Licensing) Regulations, 1997, which provide for the commencement and operation of the system of licensing by the Environmental Protection Agency of waste recovery and disposal activities under Part V of the Waste Management Act, 1996. The Regulations prescribe the day on or after which further specified classes of waste disposal and recovery activity require a waste licence in accordance with section 39(1) of the Act, and provide for related amendments of the 1997 Regulations.