

SCHEDULE 11

Regulation 41

CONSEQUENTIAL AMENDMENTS

Pollution Control and Local Government (Northern Ireland) Order 1978

1. In Article 38(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978(1), at the end add—

“but a district council shall not, without the consent of the Department of the Environment, serve any such notice in respect of noise if proceedings in respect thereof might be initiated under regulations under Article 4 of the Environment (Northern Ireland) Order 2002.”.

Clean Air (Northern Ireland) Order 1981

2. Immediately before Article 25 of the Clean Air (Northern Ireland) Order 1981(2) insert—

“Relation to Environment (Northern Ireland) Order 2002

24B.—(1) Where an activity is subject to regulations under Article 4 of the Environment (Northern Ireland) Order 2002 (regulation of polluting activities), Articles 3 to 24A shall not apply in respect of that activity, as from the determination date for the activity in question.

(2) The determination date, for an activity, is—

- (a) in the case of an activity for which a permit is granted, the date on which it is granted, whether in pursuance of an application or following an appeal;
- (b) in the case of an activity for which a permit is refused, the date of refusal, whether in pursuance of an application or following an appeal.

(3) In paragraph (2) “permit” means a permit under regulations under Article 4 of the Environment (Northern Ireland) Order 2002 and the reference to an appeal is a reference to an appeal under those regulations.”

Income and Corporation Taxes Act 1988

3. In section 91A(6) of the Income and Corporation Taxes Act 1988 (waste disposal: restoration payments)(3), in paragraph (ba) after “1999” insert—

“or a permit under regulations under Article 4 of the Environment (Northern Ireland) Order 2002,”.

The Radioactive Substances (Hospitals) Exemption Order (Northern Ireland) 1993

4. In the definition of “site licence” in Article 2(1) of the Radioactive Substances (Hospitals) Exemption Order (Northern Ireland) 1993(4), after “1978” insert—

“or a permit under the Pollution Prevention and Control Regulations (Northern Ireland) 2003.”

(1) S.I. 1978/1049 (NI 19)

(2) S.I. 1981/158 (NI 4)

(3) 1988 c. 1; section 91A was inserted by section 78 of the Finance Act 1990 (c. 29) and amended by section 110 of the Finance Act 1993 (c. 34).

(4) SR 1993 No. 54

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The Conservation (Natural Habitats, &c.) Regulations (Northern Ireland) 1995

5. After regulation 63 of the Conservation (Natural Habitats, &c.) Regulations (Northern Ireland) 1995⁽⁵⁾insert–

“Permits under the Pollution Prevention and Control Regulations (Northern Ireland) 2003

63A.—(1) Regulations 43 and 44 (requirement to consider effect on European site) apply in relation to the granting of a permit under the Pollution Prevention and Control Regulations (Northern Ireland) 2003.

(2) Where in such a case the competent authority considers that any adverse effects of the plan or project on the integrity of the European site would be avoided if the permit were subject to conditions, it may grant a permit, or cause a permit to be granted, subject to those conditions.

(3) Regulations 45 and 46 (requirement to review existing decisions and consents, etc.) apply to any such permit as is mentioned in paragraph (1).

(4) Where on the review of such a permit the competent authority considers that any adverse effects on the integrity of a European site of the carrying out or, as the case may be, the continuation of activities authorised by it would be avoided by a variation of the permit, it may vary it, or cause it to be varied, accordingly.

(5) Where any question arises as to agreeing to a plan or project, or affirming a permit on review, under regulation 44 (considerations of overriding public interest), the competent authority shall refer the matter to the Department who shall determine the matter in accordance with that regulation and give directions to the authority accordingly.”

The Landfill Tax Regulations 1996

6. In Regulation 33(4) of the Landfill Tax Regulations 1996⁽⁶⁾, after paragraph (j) insert–

“(k) an enforcement notice served under regulation 24 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003;

(l) a suspension notice served under regulation 25 of those Regulations;

(m) an order under regulation 36 of those Regulations.”

The Specified Risk Material Regulations (Northern Ireland) 1997

7. The Specified Risk Material Regulations (Northern Ireland) 1997⁽⁷⁾ have effect subject to the following amendments.

8. In regulation 24(9)(a)(i) and (b)(i), after “1978” insert–

“or permit granted under the Pollution Prevention and Control Regulations (Northern Ireland) 2003.”

9. In regulation 24(10), after “approved incinerator” insert–

“or an incinerator authorised under the Pollution Prevention and Control Regulations (Northern Ireland) 2003”

10. In the second column of the table in Schedule 2, after “1990” in the entry corresponding to regulation 24(9) in the first column of the table insert–

⁽⁵⁾ SR 1995 No. 380

⁽⁶⁾ S.I. 1996/1527

⁽⁷⁾ SR 1997 No. 552

“or authorised under the Pollution Prevention and Control Regulations (Northern Ireland) 2003.”

The Industrial Pollution Control (Northern Ireland) Order 1997

11. In Article 6 (authorisations: general provisions) of the Industrial Pollution Control (Northern Ireland) Order 1997⁽⁸⁾–

- (a) at the beginning of paragraph (6) insert “Subject to paragraph (6A) below”;
- (b) after paragraph (6) insert–
 - “(6A) Paragraph (6) above shall not require a review of the conditions of an authorisation to be carried out if–
 - (a) the prescribed process covered by the authorisation is carried on in a new Part A installation or by means of a new Part A mobile plant;
 - (b) the prescribed process covered by the authorisation is carried on in an existing Part A installation or by means of an existing Part A mobile plant and the review would be carried out within the period of two years ending at the beginning of the relevant period for that installation or mobile plant; or
 - (c) the prescribed process covered by the authorisation is carried on in an existing Part B or Part C installation or by means of an existing Part B or Part C mobile plant and the review would be carried out within the period of two years ending on the relevant date for that installation or mobile plant.

(6B) In paragraph (6A) above, “new Part A installation”, “existing Part A installation”, “new Part A mobile plant”, “existing Part A mobile plant”, “relevant period”, “existing Part B or Part C installation”, “existing Part B or Part C mobile plant” and “relevant date” have the meaning given in Schedule 3 to the Pollution Prevention and Control Regulations (Northern Ireland) 2003.”

The Waste and Contaminated Land (Northern Ireland) Order 1997

12. In Article 5(1) (duty of care as respects waste) of the Waste and Contaminated Land (Northern Ireland) Order 1997⁽⁹⁾–

- (a) after sub-paragraph (a) insert–
 - “(aa) to prevent any contravention by any other person of regulation 9 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003 or of a condition of a permit granted under regulation 10 of those Regulations;”
- (b) in sub-paragraph (c)(ii), after “that Article” insert “or any condition of a permit granted under regulation 10 of those Regulations”.

The Industrial Pollution Control (Prescribed Processes and Substances) Regulations (Northern Ireland) 1998

13. After regulation 3 of the Industrial Pollution Control (Prescribed Processes and Substances) Regulations (Northern Ireland) 1998⁽¹⁰⁾ insert–

⁽⁸⁾ S.I. 1997/2777 (NI 18)

⁽⁹⁾ S.I. 1997/2778 (NI 19)

⁽¹⁰⁾ SR 1998 No. 28

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“Exclusion of prescribed processes under control of the Pollution Prevention and Control Regulations (Northern Ireland) 2003

3A.—(1) Where a process which is being carried on under an authorisation requires a permit under the Pollution Prevention and Control Regulations (Northern Ireland) 2003 authorising the carrying on of that process in an installation or by means of mobile plant and an application is made (or deemed to have been made) under those Regulations for the permit, that process shall, from the determination date for the installation or mobile plant, as the case may be, no longer be taken to fall within the description in Schedule 1.

(2) Where a process which is not being carried on under an authorisation requires a permit under those Regulations authorising the carrying on of that process in an installation or by means of mobile plant, that process shall not be taken to fall within the description in Schedule 1 from the date on which the permit is required.

(3) In this regulation, “installation” and “mobile plant” have the meaning given in regulation 2(2) of the Pollution Prevention and Control Regulations (Northern Ireland) 2003 and “determination date” has the meaning given in Schedule 3 to those Regulations.”

The Special Waste Regulations (Northern Ireland) 1998

14. In regulation 16(2) (restrictions on mixing special waste) of the Special Waste Regulations (Northern Ireland) 1998(11), in paragraph (a) after “1997” insert—

“or under a permit granted under the Pollution Prevention and Control Regulations (Northern Ireland) 2003.”

The Groundwater Regulations (Northern Ireland) 1998

15. The Groundwater Regulations (Northern Ireland) 1998(12) have effect subject to the following amendments.

16. In the definition of “authorisation” in regulation 2(1), delete “and” at the end of paragraph (b) and after paragraph (c) insert—

“and (d) a permit under the Pollution Prevention and Control Regulations (Northern Ireland) 2003 in so far as it authorises the operation of a Part A installation or a Part A mobile plant within the meaning of those Regulations;”.

17. After “1997” in regulation 4 insert —

“and the Pollution Prevention and Control Regulations (Northern Ireland) 2003.”

The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999

18. At the end of Schedule 1 to the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999(13) insert “the Pollution Prevention and Control Regulations (Northern Ireland) 2003”.

The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002

19. In the Table in regulation 2 of the Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002(14), after the second entry in column 1 insert—

(11) SR 1998 No. 289

(12) SR 1998 No. 401

(13) SR 1999 No. 362

(14) SR 2002 No. 271

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“A person who is the holder of a permit under the Pollution Prevention and Control Regulations (Northern Ireland) 2003 which authorises the carrying out of a specified waste management activity within the meaning of those Regulations.”