

ENVIRONMENTAL PROTECTION WASTE AND CONTAMINATED LAND (NORTHERN IRELAND) ORDER 1997

FIT AND PROPER PERSON

**Consultation on amending the Fit and Proper
Persons requirements of the Waste Management
Licensing Regime**

**The Waste Management Licensing (Amendment
No. X) Regulations (Northern Ireland) 2014**

July 2014

Contents		
		Page
Section		
	General Information, Timing and Responses	2
	Introduction	4
1	Purpose of consultation	6
2	Prescribed Offences	
	Background	6
	Options	6
3	Technical Competence	
	Background	8
	Options	9
4	Impact	10
5	Legislative Proposals	10
Annex 1	Draft Regulations	12
Annex 2	Rural Screening	23
Annex 3	List of Consultees	24

General Information, Timing and Responses to this Consultation


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Information about this publication and further copies are available from the above address.

This document and the draft Regulations accompanying this document are available on the DOE website:- http://www.doeni.gov.uk/index/protect_the_environment/waste.ht

Under Section 75 of the Northern Ireland Act 1998, the Department is required to have due regard for the need to ensure equality. Accordingly, a screening exercise was carried out to ascertain if the policies contained in this document require a full equality impact assessment. This assessment can be accessed at:- http://www.doeni.gov.uk/eqia_-_draft_waste_management_licensing_amendment_no_x_.pdf 

Additionally, a partial Regulatory Impact Assessment was carried out. This can be found in Section 4 of the document. Rural screening was also carried out and the results can be found at Annex 2 to this document.

Timing

The commencement date of this consultation is 9 July 2014 and it will close on the **30 September 2014**.

How to respond to this consultation

Responses can be sent:

By email to: wdr@doeni.gov.uk

By post to: Waste & Radioactivity Team
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Environmental Policy Division
Goodwood House
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By fax to: 028 9025 4732

When responding, please state whether you are responding as an individual or representing the views of an organisation. If you are representing an organisation please make it clear which organisation you represent and, where applicable, how the views were assembled.

Enquiries

Enquiries regarding the content of this consultation paper, or requests for further copies, should be made to Brian McCarron (e-mail: brian.mccarron@doeni.gov.uk; telephone: 028 9025 4992). Information and additional copies of the document can also be requested by text phone (028 9054 0642).

Confidentiality

The Department will publish a summary of the responses received on its website shortly after the consultation period has ended. It may also wish to publish individual responses to this consultation document. If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.

You should also be aware that there may be circumstances in which the Department will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.

Geographical Coverage

The proposed legislative changes that are the subject of this consultation relate to Northern Ireland only.

Published by the Department of the Environment

Introduction

The Waste Framework Directive (the Directive) was first introduced in 1975 and has been amended and updated a number of times since then. However, the key theme of the Directive has always been that waste management is carried out in a way that does not endanger human health or harm the environment - Article 13 of Directive 2008/98/EC¹.

Article 23 of the Directive requires that anyone involved in waste management must have a licence to do so unless they are engaged in specified lower risk activities, in which case they must register an exemption, as provided for by way of Articles 24 and 25 of the Directive.

The Waste and Contaminated Land (Northern Ireland) Order 1997² (the 1997 Order), supported by a number of pieces of subordinate legislation, mostly transposes the requirements of the Waste Framework Directive. The requirement to protect the environment and human health was put in place by way of a number of measures including provisions that allow the Department (as the competent authority) to determine if the person controlling the waste is a fit and proper person to be doing so.

This was enshrined in the law by way of Article 3 of the 1997 Order as follows:-

Meaning of “fit and proper person”

3. — (1) The following provisions apply for the purposes of the discharge by the Department of any function under this Part which requires the Department to determine whether a person is or is not a fit and proper person to hold a waste management licence.

(2) Whether a person is or is not a fit and proper person to hold a licence is to be determined by reference to the carrying on by him of the activities which are or are to be authorised by the licence and the fulfilment of the requirements of the licence.

(3) Subject to paragraph (4), a person shall be treated as not being a fit and proper person if it appears to the Department—

(a) that he or another relevant person has been convicted of a prescribed offence;

(b) that the management of the activities which are or are to be authorised by the licence are not or will not be in the hands of a technically competent person; or

(c) that the person who holds or is to hold the licence has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the licence.

(4) The Department may, if it considers it proper to do so in any particular case, treat a person as a fit and proper person notwithstanding that paragraph (3)(a) applies in his case.

(5) Regulations may prescribe the qualifications and experience required of a person for the purposes of paragraph (3)(b).

(6) For the purposes of paragraph (3)(a), another relevant person shall be treated, in relation to the licence holder or proposed licence holder, as the case may be, as having been convicted of a prescribed offence if—

(a) any person has been convicted of a prescribed offence committed by him in the course of his employment by the holder or, as the case may be, the proposed holder of the licence or in the course of the carrying on of any business by 2 or more persons in partnership one of such persons was the holder or, as the case may be, the proposed holder of the licence;

(b) a body corporate has been convicted of a prescribed offence committed when the holder or, as the case may be, the proposed holder of the licence was a director, manager, secretary or other similar officer of that body corporate; or

(c) where the holder or, as the case may be, the proposed holder of the licence is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate—

(i) has been convicted of a prescribed offence; or

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:312:0003:0030:en:PDF>

² SI 1997/2778

(ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a prescribed offence for which that other body corporate has been convicted was committed.

As you can see, the 'Fit and Proper Person' test comprises three main areas:-

- 1) That the person holding the waste management licence must not have been convicted of a prescribed offence;
- 2) that the person managing the waste must be technically competent; and
- 3) that the person holding the licence must have adequate financial provision to discharge the obligations arising from the licence.

For the purposes of this consultation, where appropriate, 'person' can be construed as a body corporate, director, manager, secretary or other similar officer of a body corporate.

This consultation deals only with the prescribed offences and technical competence elements of the Fit and Proper Persons test. It does not touch upon the third element of the Fit and Proper Persons test, viz, the financial provision test, which may be the subject of a separate exercise at a later date.

1. PURPOSE

- 1.1 The purpose of this document is to consult upon the proposed Waste Management Licensing (Amendment No. X) Regulations (Northern Ireland) 2014.

2. PRESCRIBED OFFENCES

Background

- 2.1 Schedule 1 to the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999³ (the 1999 Regulations) and regulation 2 of the Waste Management Licensing Regulations (Northern Ireland) 2003⁴ (the 2003 Regulations) fulfil the requirement of Article 3(3)(a) of the 1997 Order by prescribing the offences which must be taken into account by the Department when determining if the person holding a waste management licence or registering as a waste carrier, broker or dealer is a fit and proper person to do so.
- 2.2 Schedule 1 to the 1999 Regulations and regulation 2 of the 2003 Regulations are outdated and no longer fit for purpose. Accordingly, the Department is proposing to amend the legislation.
- 2.3 The waste industry has, in recent years, been infiltrated by organised criminals and has been used as a cover for a number of illegal activities including money laundering, avoidance of taxes, fuel laundering and the wrongful management of waste, which has been very lucrative for those involved but very harmful to the environment and the Northern Ireland economy.
- 2.4 The offences contained in regulation 2 of the 2003 Regulations are not only out of date, they focus mostly on waste-related offences and do not take account of other offences, which could point to a person not being seen as fit and proper. Therefore, the Department proposes to broaden the spectrum of prescribed offences to take into account other criminal activities such as fraud and theft. Environmental offenders are often guilty of other forms of criminality.
- 2.5 The rationale behind broadening the scope of the prescribed offences is that it will allow the Department to take into account any convictions that provide an insight to the applicant's proven criminal background and indicate if there are any reputational facts about the person applying for a licence that would preclude them from being granted or from continuing to hold a licence. The Department must be able to make more informed decisions on whether or not the person can be regarded as fit and proper or 'undesirable' as stated in Article 40 of the 1997 Order in relation to waste carriers to ensure that waste is managed in a manner that excludes criminality, encourages legitimate business and protects human health and the environment.

Options

- 2.6 The Department looked at a number of options to deliver the necessary legislative changes in relation to Fit and Proper Persons.

³ SR 1999 No. 362

⁴ SR 2003 No. 493

- 2.7 Option 1 – Do nothing. For the reasons stated earlier, this was not an option.
- 2.8 Option 2 - amend the 1999 Regulations by revoking Schedule 1 and attracting the offences prescribed in the 2003 Regulations. Amend the 2003 Regulations by revoking the current regulation 2 and replacing it with a new regulation 2 which simply introduces a new Schedule to the Regulations, which will list the prescribed offences. This is the Department's preferred option.
- 2.9 Option 3 – develop a stand-alone set of Regulations. This option is not considered the optimum way forward, please see below.
- 2.10 As stated above, the preferred option is Option 2 for the following reasons:
- The proposed new Schedule to the 2003 Regulations will contain all of the offences that the Department believes should be considered when deciding if an applicant is a fit and proper person to hold a waste management licence.
 - Accordingly, the Schedule will contain tables setting out 'Relevant Environmental Offences', 'Relevant Financial Offences' and 'Other Relevant Offences'.
 - This one list of offences will serve a number of pieces of related legislation (including the 1999 Regulations) without needing further consequential amendments.
 - Developing the amending Regulations in the way proposed will make it easier to update the prescribed offences element of the Fit and Proper Persons test as and when necessary, for example, when new relevant offences are created or existing offences are changed, by simply substituting the Schedule with a new up-to-date one. The effect of this will be to enable the Department to keep abreast of changing legal requirements and to apply the Fit and Proper Persons principle more efficiently and effectively, based on current and up-to-date legislation, unlike at the present moment.
 - A further advantage of amending regulation 2 of the 2003 Regulations in this way is that it will be easier for the public to locate the list of offences in the Schedule rather than them being 'lost' in the body of the Regulations themselves.
 - The Department is looking at offences as part of its Better Regulation (BR) programme. The proposed Schedule approach would provide the BR team with an up-to-date Schedule that could be lifted and dropped into their proposed legislation when appropriate.
- 2.11 Whilst the production of a 'suite' of 'Fit and Proper Persons Regulations' sounds attractive, there are a number of factors that the Department believes rules out Option 3 at this time, the key one being:-
- A number of consequential amendments to other pieces of legislation would be required, eg, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013, which attract regulation 2 of the 2003 Regulations. This would make the drafting of the legislation convoluted. It

would also require the amendment of several pieces of legislation instead of just two which would delay the timing of the introduction of the changes.

2.12 Accordingly, the Department has chosen Option 2.

Question 1: Do you agree that Option 2 provides the best option for updating the prescribed offences element of the Fit and Proper Persons test and that the proposed changes are sufficient to deliver the anticipated outcome? Please explain your answer.

3. TECHNICAL COMPETENCE

Background

- 3.1 Article 3(3)(b) of the 1997 Order requires that anyone operating under a waste management licence must be technically competent to do so.
- 3.2 Regulations 3 to 5 of and Schedule 1 to the Waste Management Licensing Regulations (NI) 2003 prescribe the qualifications that would deem a person to be technically competent; provide for a transition period mostly to allow those with waste authorisations issued under various pieces of older legislation to comply with the 2003 Regulations within a specified timescale; and provide that in specified circumstances the Department may deem someone as technically competent in the absence of certification.
- 3.3 The Department is proposing to amend all three regulations and the associated Schedules.
- 3.4 As the Regulations stand, the information contained in Schedule 1 is out of date. A Certificate of Technical Competence (CoTC) is designed to allow licensed waste facilities in Northern Ireland to demonstrate that they employ technically competent people with the knowledge and skills to ensure waste sites comply with the Waste Management Regulations (NI) 2003 (as amended). The level of technical competency is proportionate to the complexity of the activities and processes and the environmental risks. The list of technical competence certificates as set out in Schedule 1 does not take account of new technologies that have been introduced since the Regulations came into operation. Consequently, the courses required to operate these new installations/treatment processes are not covered by the existing Waste Management Regulations. It is proposed, therefore, to update the Schedule to reflect the current training and CoTCs. New technologies, such as Anaerobic Digestion and thermal treatment will be addressed in these latest amendments.
- 3.5 Regulation 3(2) provides an exclusion from the requirement to be technically competent for scrap metal dealers, those who dismantle motor vehicles and those who dispose of dead domestic pets. As the former waste activity has the potential to create significant risk of pollution and harm to health, it is proposed that this exclusion should be removed to require all scrap metal dealers and those who dismantle motor vehicles to obtain technical competence certification. The disposal of dead domestic pets is no longer a waste management licensing matter under the Waste Framework Directive and is now dealt with under the Animal By-Products Regulations.

- 3.6 Regulation 5 provides a period of grace for operators who are unable at the time of application to demonstrate technical competence. This transitional period of two years provides the opportunity to become certified as technically competent, to someone who is not certified under [WAMITAB](#) but is deemed by the Department in the interim to be technically competent. After liaison with WAMITAB it is considered that a 12-month period provides adequate time for such an operator to become certified as technically competent. Accordingly, it is proposed to reduce the time period from two years to 12 months. This proposed change also ensures parity with the rest of the UK.
- 3.7 The Northern Ireland Environment Agency (NIEA) requires operators holding waste management licences to be competent to deal with the environmental risks associated with their activities. NIEA can review operator competence at any time and may refuse an application or revoke a waste management licence if it considers the operator is not competent, that is, will not comply with licence conditions. In addition, operators who continually breach the conditions of their licences or pose unacceptable risks to the environment or human health will not be considered to be competent to manage their waste facility and will have their licence revoked.
- 3.8 The EU Services Directive requires the mutual recognition of qualifications across Member States (MS). This mostly applies to certificates that are personal to holder. Therefore, someone who has acquired certification as a technically competent waste operator in another part of the UK should be able to operate a waste facility in Northern Ireland. Regulation 5 allows the Department to assess if such a person can be deemed technically competent and also provides that if necessary they can apply for WAMITAB certification.

Options

- 3.8 Option 1 – Do nothing. Again this was not an option, the outdated legislation needed to be amended to be current.
- 3.9 Option 2 – Amend the 2003 Regulations as follows:-
- Regulation 3 will be amended to remove the exclusion of scrap metal dealers and those who dismantle motor vehicles from the requirement to be certified as technically competent. The exclusion for those who dispose of dead domestic pets will be removed altogether as this activity is now covered by Animal By-Products legislation.
 - Regulation 4 is no longer relevant as it was a transitional regulation and the time periods provided for have expired or the legislation it relates to has been revoked and/or replaced. Accordingly, it is proposed that this regulation and paragraph 43 of Part 1 of Schedule 2 to the 2003 Regulations are revoked.
 - Regulation 5 sets out that where someone has applied for certification as a technically competent person; an application for a licence has been made in relation to activities to be carried out by that person; those activities are to be carried out at a facility of the same type as that covered by that licence application; and the Department is satisfied in the meantime that that person is technically competent, the full requirements of regulation 3 need not apply for a period of up to two years, to allow the applicant to obtain certification. It is

proposed to reduce this period to one year as this will provide sufficient time for a competent person to obtain a certificate.

- Schedule 1 to the 2003 Regulations establishes the qualifications required of a person if they are to be regarded as technically competent. The Schedule is outdated and needs to be amended to reflect technological advances and new training. Accordingly, Schedule 1 will be substituted by a new Schedule 1.
- Paragraph 43 of Part 1 of Schedule 2 to the 2003 Regulations will be revoked.

3.10 The Department has chosen Option 2.

Question 2: Do you agree that Option 2 provides the best option for updating the technical competence element of the Fit and Proper Persons test? Please explain your answer.

Question 3: Do you agree that 12 months are sufficient to allow an operator to obtain full certification under regulation 5? Please explain your answer.

4. IMPACT

4.1 The impact of the broader list of prescribed offences will be minimal on legitimate waste operators but could have a major impact on those with criminal records.

4.2 The changes to the list of technical competencies will allow those operating facilities with newer technologies to obtain appropriate CoTCs.

4.3 The reduction of the 'period of grace' from two years to 12 months will still provide sufficient time for applicants to obtain certification as being technically competent. It will, however, speed up the process, the result of which will be that facilities are properly managed by a fully competent person at an earlier stage and that any threat to the environment, human health and the economy is minimised.

4.4 There are no anticipated increases in costs to the industry associated with the proposed changes.

4.5 The proposed changes do not impact on the human rights of legitimate operators.

Question 4: Do you agree with these impact statements. If not, please explain your answer.

Question 5: Please indicate if you think there are further impacts that have not been considered.

5. Legislative Proposals

5.1 The draft Waste Management Licensing (Prescribed Offences and Technical Competence) Regulations (Northern Ireland) 2014 are attached as Annex 1.

Question 6: Do you think the Regulations:

- (a) Fully reflect the changes necessary to ensure that the Fit and Proper Persons tests are fit for purpose under the legislation? Please explain your answer.**
- (b) Will help to reduce criminality in the waste industry? Please explain your answer.**
- (c) Will protect the needs of legitimate operators? Please explain your answer.**

 STATUTORY RULES OF NORTHERN IRELAND

2014 No.

ENVIRONMENTAL PROTECTION

**The Waste Management Licensing (Amendment No X) Regulations
(Northern Ireland) 2014**

Made - - - - - *xxxxx 2014*

Coming into operation - *xxxxxx 2014*

The Department of the Environment, in exercise of the powers conferred by Articles 3(3)(a), 3(5) and 39 of the Waste and Contaminated Land (Northern Ireland) Order 1997⁽⁵⁾ makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Waste Management Licensing (Amendment No. X) Regulations (Northern Ireland) 2014 and shall come into operation on xxxxx 2014.

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

2.—(1) The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999⁽⁶⁾ are amended in accordance with paragraphs (2) and (3)—

(2) In regulation 1(2) for the definition of “prescribed offences” substitute—

““prescribed offence” means an offence under regulation 2 of the 2003 Regulations”

(3) Schedule 1 is revoked.

Amendment of the Waste Management Licensing Regulations (Northern Ireland) 2003

3.—(1) The Waste Management Licensing (Regulations) (Northern Ireland) 2003⁽⁷⁾ are amended in accordance with paragraphs (2) to (8)—

(2) For regulation 2 substitute—

“2. Schedule 6 has effect to prescribe offences for the purposes of Article 3(3)(a) of the 1997 Order in Schedule 6.”

(3) For regulation 3 substitute—

“3. Without prejudice to the European Communities (Recognition of Professional Qualification) Regulations 2002, Schedule 1 has effect to prescribe the qualifications and experience required of a person if that person is to be considered technically competent for the purposes of Article 3(3)(b) of the 1997 Order”

(4) Regulation 4 is revoked.

(5) In regulation 5(1) for paragraph (a) substitute—

⁽⁵⁾ S.I. 1997/2778 (N.I. 19) as amended

⁽⁶⁾ S.R. 1999 No. 362 relevant amendments S.R. 2003 No. 493, S.R. 2006 No.280 and S.R. 2011 No. 127

⁽⁷⁾ S.R. 2003 No. as amended

“(a) a person has applied to the Waste Management Industry Training and Advisory Board (“WAMITAB”) for a certificate of technical competence in relation to one of the types of facility mentioned in paragraph (2);”

(6) In regulation 5(1) for paragraph (d) substitute—

“(d) the Department is satisfied that but for regulation 3 he would be a technically competent person, then, in relation to the facility in respect of which the application mentioned in sub-paragraph (b) was made and until the expiry of 12 months from the grant of a licence pursuant to that application, regulation 3 shall not apply to that person and he shall be treated as technically competent for the purposes of Article 3(3)(b) of the 1997 Order.”

(7) For Schedule 1 substitute—

“

SCHEDULE 1

Regulation 3

Certificates of Technical Competence

1. The qualifications required of a person if he is to be regarded as technically competent for the purposes of Article 3(3)(b) of the 1997 Order to manage a facility of a description listed in Table 1 are that that person must hold one of the certificates awarded by WAMITAB, the codes of which are specified in relation to that description of facility in that Table; and the certificates to which the codes refer are set out in Table 2 or for sites not covered by WAMITAB, the Department will make its own assessment of technical competence, based primarily on the nature of the waste facility and the type and level of experience in waste management of the person operating it.

Table 1 – Certificate of Technical Competence Codes

<i>Number</i>	<i>Type of Facility</i>	<i>Certificate Code</i>
1	Landfill site for hazardous waste	A, D or G
2	Landfill site for hazardous waste – single waste stream	A, D, G or H
3	Landfill site for non-hazardous waste	A, B, D, E, G or I
4	Landfill site for non-hazardous waste – single waste stream	A, B, D, E, G, H, I or J
5	Landfill site for inert waste with a total capacity of greater than 50,000cubic metres	A, B, C, D, E, F, G, I or K
6	Landfill site for inert waste with a total capacity of greater than 50,000cubic metres – single waste stream	A, B, C, D, E, G, H, I, J, K or L
7	Closed landfill site for hazardous waste	A, D, G or M
8	Closed landfill site for hazardous waste – single waste stream	A, D, G, H or M
9	Closed landfill site for non-hazardous waste	A, B, D, E, G, I or M
10	Closed landfill site for non-hazardous waste – single waste stream	A, B, D, E, G, H, I, J or M
11	Closed landfill site for inert waste with a total capacity of greater than 50,000 cubic metres	A, B, C, D, E, F, G, I, K or M

12	Closed landfill site for inert waste with a total capacity of greater than 50,000 cubic metres – single waste stream	A, B, C, D, E, F, G, H, I, J, K, L or M
13	Technical plant where hazardous waste is subjected to a chemical or physical process	N, P or S
14	Technical plant where hazardous clinical waste is subjected to a chemical or physical process	N, P, S or Ss
15	Technical plant where hazardous waste is subjected to a chemical or physical process for the treatment of contaminated land	N, P, S or T
16	Technical plant where non-hazardous waste is subjected to a chemical or physical process	N, P, Q, S or U
17	Technical plant where non-hazardous waste is subjected to a composting process	N, P, Q, S, U or W
18	Technical plant where non-hazardous waste is subjected to a chemical or physical process for the treatment of contaminated land	N, P, Q, S, T, U or V
19	Treatment plant where non-hazardous clinical waste is subjected to a chemical or physical process	N, P, S, Ss or X
20	Treatment plant where inert waste is subjected to a chemical or physical process	N, O, P, Q, R, S, U or Y
21	Transfer station for hazardous waste where the capacity of the facility is greater than 5 cubic metres	Z, DD or II
22	Transfer station for hazardous clinical waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, II or JJ
23	Transfer station for non-hazardous waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, EE, II or KK
24	Transfer station for hazardous clinical waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, II, JJ or LL
25	Transfer station for inert waste where the capacity is greater than 50 cubic metres	Z, AA, DD, EE, FF, II, KK or MM
26	Civic amenity site where the amount of waste accepted is 5,000 tonnes per annum or less	Z, BB, DD, EE, GG, II, KK or NN
27	Civic amenity site where the amount of waste accepted is greater than 5,000 tonnes per annum	Z, DD, EE, II or KK
28	Site where waste is burned in an incinerator designed to incinerate waste at a rate of more than 50 kilograms per hour but less than 1 tonne per hour	CC, HH or OO
29	Technical plant where non-hazardous waste is subjected to biological treatment: storage of digestate from anaerobic digestion plants	4MBTNHA
30	Technical plant where non-hazardous waste is subjected to biological treatment: anaerobic digestion facility including	4MBTNHA

	use of resultant biogas	
31	Technical plant where non-hazardous waste is subjected to biological treatment: on-farm anaerobic digestion facility including use of resultant biogas	4MBTNHA
32	Technical plant where non-hazardous waste is subjected to thermal treatment process	4MTTNH
33	Technical plant where hazardous waste is subjected to thermal treatment process	4MTTHC
34	Technical plant where hazardous waste is subjected to thermal treatment process: autoclaving	4MTTHA

Notes to Table 1:

The following certificates ceased to be awarded on 9th October 1997: A, B, C, N, O, Z, AA, BB and CC. These remain relevant certificates of technical competence.

The following certificates ceased to be awarded on 31st March 2003: D, E, F, P, Q, R, DD, EE, FF, GG and HH. These remain relevant certificates of technical competence.

Table 2 – Relevant Certificate of Technical Competence

<i>Code</i>	<i>Relevant Certificate of Technical Competence</i>
A	Managing Landfill Operations: Special Waste (Level IV)
B	Managing Landfill Operations: Biodegradable Waste (Level IV)
C	Landfill Operations: Inert Waste (Level III)
D	Managing Landfill Operations: Special Waste (Level 4)
E	Managing Landfill Operations: Biodegradable Waste (Level 4)
F	Landfill Operations: Inert Waste (Level 3)
G	Level 4 in Waste Management Operations – Managing Landfill Hazardous Waste
H	Level 4 in Waste Management Operations – Managing Landfill Hazardous Waste (Single Waste Stream)
I	Level 4 in Waste Management Operations – Managing Landfill Non-Hazardous Waste
J	Level 4 in Waste Management Operations – Managing Landfill Non-Hazardous Waste (Single Waste Stream)
K	Level 3 in Waste Management Operations – Inert Waste (landfill)
L	Level 3 in Waste Management Operations – Inert Waste (Single Waste Stream)
M	Level 4 in Waste Management Operations – Closed Landfill
N	Managing Treatment Operations: Special Waste (Level IV)

O	Treatment Operations: Inert Waste (Level III)
P	Managing Treatment Operations: Clinical or Special Waste (Level 4)
Q	Managing Treatment Operations: Biodegradable Waste (Level 4)
R	Treatment Operations: Inert Waste (Level 3)
S	Level 4 in Waste Management Operations – Managing Treatment Hazardous Waste
Ss	Level 4 in Waste Management Operations – Managing Treatment Hazardous Waste (Clinical)
T	Level 4 in Waste Management Operations – Managing Treatment Hazardous Waste (Remediation of Contaminated Land)
U	Level 4 in Waste Management Operations – Managing Treatment Non-Hazardous Waste
V	Level 4 in Waste Management Operations – Managing Treatment Non-Hazardous Waste (Remediation of Contaminated Land)
W	Level 4 in Waste Management Operations – Managing Treatment Hazardous Waste (Composting)
X	Level 4 in Waste Management Operations – Managing Treatment Hazardous Waste (Clinical)
Y	Level 3 in Waste Management Operations – Inert Waste (Treatment)
Z	Managing Transfer Operations: Special Waste (Level IV)
AA	Transfer Operations: Inert Waste (Level III)
BB	Civic Amenity Site Operations (Level III)
CC	Managing Incineration Operations: Special Waste (Level IV)
DD	Managing Transfer Operations: Clinical or Special Waste (Level 4)
EE	Managing Transfer Operations: Biodegradable Waste (Level 4)
FF	Transfer Operations: Inert Waste (Level 3)
GG	Civic Amenity Site Operations (Level 3)
HH	Managing Incinerator Operations: Special Waste (Level 4)
II	Level 4 in Waste Management Operations – Managing Transfer Hazardous Waste
JJ	Level 4 in Waste Management Operations – Managing Transfer Hazardous Waste (Clinical)
KK	Level 4 in Waste Management Operations – Managing Transfer Non-Hazardous Waste
LL	Level 4 in Waste Management Operations – Managing Transfer Non-Hazardous Waste (Clinical)
MM	Level 3 in Waste Management Operations – Inert Waste (Transfer)
NN	Level 3 in Waste Management Operations – Civic Amenity Site
OO	Level 3 in Waste Management Operations – Managing Incineration
4MBTNHA	Level 4 in Waste Management Operations – Managing Biological Treatment – Non-

	Hazardous Waste: Anaerobic Digestion
4MTTNH	Level 4 in Waste Management Operations – Managing Thermal Treatment – Non-Hazardous Waste
4MTTHC	Level 4 in Waste Management Operations - Managing Thermal Treatment – Hazardous Clinical Waste
4MTTHA	Level 4 in Waste Management Operations – Managing Thermal Treatment – Hazardous Waste - Autoclaving

2. In Table 1 –

“civic amenity site” or “household recycling centre” means a place provided by virtue of Article 25(1)(b) of the 1997 Order;

“closed landfill” means a landfill site which ceased to accept waste on or after 19th December 2003;

“landfill site” means a waste disposal site for the deposit of waste onto or into land, including –

(a) subject to sub-paragraph (b), any site which is used for more than a year for the temporary storage of waste; and

(b) any internal waste disposal site, that is to say a site where a producer of waste is carrying out its own waste disposal at the place of production;

but excluding –

(i) any facility where waste is unloaded in order to allow its preparation for further transport for recovery, treatment or disposal elsewhere;

(ii) any site where waste is stored as a general rule for a period of less than three years prior to recovery or treatment; and

(iii) any site where waste is stored for a period of less than one year prior to disposal;

“non-hazardous waste” means any waste which is not covered by the definition of hazardous waste;

“single waste stream” in relation to a waste disposal site refers to a site where the producer of all of the waste disposed of at that site is also the holder of the waste management licence, a relevant authorisation under the Landfill Regulations (Northern Ireland) 2003 or a permit under the Pollution, Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013; and

“transfer station” means a facility where waste is unloaded in order to allow its preparation for further transport for treatment, keeping or disposal elsewhere; and

“waste” is “inert waste” if –

(a) it does not undergo any significant physical, chemical or biological transformations;

(b) it does not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health; and

(c) its total leachability and pollutant content and the ecotoxicity of its leachate are insignificant and, in particular, do not endanger the quality of any surface water or groundwater.”

(8) After Schedule 5 insert—

“

SCHEDULE 6

Regulation 2

Prescribed Offences

1. The offences to be regarded as prescribed offences for the purposes of Article 3(3)(a) of the 1997 Order, are listed in Tables 1-3. Subject to Article 3(4) of the 1997 Order a person shall be treated as not being a fit and proper person if it appears to the Department that he or another relevant person has been convicted of any of the offences listed in those tables—

Table 1 – Relevant Environmental offences

<i>Number</i>	<i>Offence(s)</i>
1.	Articles 29 and 72(3) of the Pollution Control and Local Government (Northern Ireland) Order 1978
2.	Section 9(1) and (2) of the Food and Environment Protection Act 1985
3.	Articles 24, 25, 53, 64, 66 and 69 of the Land Drainage Act 1991
4.	Articles 4(6), 5(8), 5E(9), 6(7), 12(12), (13), 15(5A), 15(5B), 18, 21(6), 22(6), 27(5), 27(5A), 28(5), 28(6), 29(3), 31(2), 38(1), 42(7), 44(2), 59(1), (3), (4), 74(2), 74(3) and 79 of the Waste and Contaminated Land (Northern Ireland) Order 1997
5.	Articles 7, 8(5), 12(3), 15(6), 26(5), (6), 19(1), 28(3), 29(b), 113(1), 113(3), 143, 236, 237, 240(1) and 267(1) of the Water (Northern Ireland) Order 1999
6.	Regulations 12(1), (2), (3) and (4) of the Environmental Protection (Disposal of Polychlorinated Biphenyls and Other Dangerous Substances) Regulations (Northern Ireland) 2000
7.	Articles 20, 23, 24 and 46 of the Environment (Northern Ireland) Order 2002
8.	Regulation 12 of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003
9.	Regulations 10, 13, 23, 31, 35 and 42 of the End of Life Vehicles Regulations 2003
10.	Regulations 18(1), 22(1) of and paragraphs 12(1), (2) and 14(5), (7) and (8) of Part 1 of Schedule 3 to the Waste Management Licensing (Northern Ireland) Regulations 2003.
11.	Regulation 17(1) of the Landfill Regulations (Northern Ireland) 2003
12.	Regulations 13(1) and 16(3) of the Water Resources

	(Environmental Impact Assessment) Regulations (Northern Ireland) 2005
13.	Regulation 43(1), 43(3), 43(5) of the Hazardous Waste Regulations (Northern Ireland) 2005
14.	Regulation 6(1) of the Radioactive Contaminated Land Regulations (Northern Ireland) 2006
15.	Regulations 18(10) and 24(1) and 24(2) of the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006
16.	Regulation 40 of the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007
17.	Regulations 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 52, 53, 54, 55, 57 of and paragraphs 4 and 5 of Schedule 1 and paragraph 6(3) of Part 1 of Schedule 5 to the Transfrontier Shipment of Waste Regulations 2007
18.	Regulation 42 of the Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008
19.	Regulation 89(1), 89(2), 89(3), 89(4), 89(5) and 89(6) of the Waste Batteries and Accumulators Regulations 2009
20.	Regulations 9, 10, 17, 26 and 27 of the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009
21.	Regulations 19(1), 24(3) and 25(3) of the Groundwater Regulations (Northern Ireland) 2009
22.	Sections 85, 89 and 92(3) of the Marine and Coastal Access Act 2009
23.	Regulation 25 of the Nitrates Action Programme Regulations (Northern Ireland) 2010
24.	Regulation 24 of the Waste Regulations (Northern Ireland) 2011
25.	Sections 42(6), 43(5), 76(9), 85(1), 85(5), 103(1), 109(3), 117(1), 126(1), 126(3), 127(1), 134(1), 134(5), 137(1), 146(9), 147(2), 147(5), 149(5), 150(12), 152(9), 168(1), 168(6), 172(1), 175(2), 178(2), 178(5), 237(2), 237(3) and 240(3) of the Planning Act (Northern Ireland) 2011
26.	Regulations 82(6), 89(10) and 90 of the Waste Electrical and Electronic Equipment Regulations 2013
27.	Regulation 36 of the Pollution, Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013

Table 2 – Relevant Financial offences

1.	Sections 13, 14, 15(1), 16, 20A, 21(6), 22A, 23, 24, 25, 25A, 26, 31, 32, 33, 34, 35, 36, 37C, 41, 42, 50, 53, 54, 55, 56, 57, 58B, 58E, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 68A, 70, 71, 72, 73, 74,
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	75, 77, 77A, 78, 80, 83, 84, 85, 86, 87, 91, 94, 96, 100, 102, 125, 129, 133, 136, 141, 158, 159, 163, 167, 168, 169, 170 and 170B of the Customs and Excise Management Act 1979
2.	Sections 1, 2, 3, 4, 5, 7, 14, 15, 16, 17, 18 and 19 of the Forgery and Counterfeiting Act 1981
3.	Paragraphs 15(1), (3), (4), (5) (6) or (7) of Part IV of Schedule 5 to the Finance Act 1996
4.	Sections 1, 6, 7, 9, 11 and 12 of the Fraud Act 2006

Table 3 – Other relevant offences

1.	Section 114 of the Public Health Act 1878
2.	Sections 7, 8, 9, 10, 11, 12, 13, 17, 18, 19, 20, 21, 23, 23A and 24 of the Theft Act (Northern Ireland) 1969
3.	Sections 4, 5, 6, 8, 9, 9A, 11, 12, 13, 17, 18, 19, 20, 21 and 23 of the Misuse of Drugs Act 1971
4.	Sections 24, 24A, 25, 25A, 25B, 26, 26A, 26B and 27 of the Immigration Act 1971
5.	Articles 98(3) and 98(4) of the Local Government Act (Northern Ireland) 1972
6.	Article 11 of the Animals (NI) Order 1976
7.	Articles 31(1), 34(1), 34(2) of the Health and Safety at Work Order 1978
8.	Articles 3, 9(10), (13), 10(3), 11(3), (3B), 11A(1), 15(7), 15B(11), 15C(4), 19, 31E, 31F, 31G, 56(3), 72(1), (2), 73A(4), 75, 81(1B), (3), 82(3), 86(1), 90(4), 91A, 95(2), 96(2), 97(3) , 168A(1), 174(2), (2A), 172, 172B, 172B, 175(2), 176(2), 177(1)(b), (c) and 180(1), (4), (6), (7) of the Road Traffic (Northern Ireland) Order 1981 contravention of enforcement
9.	Sections 20A(1), 20A(1A), 24(2A), 24(2B), 86A(3), 90(1), 90(3), 91(1) of and paragraph 6(10) of Schedule 6 and paragraph 5 of Schedule 10 to the Criminal Justice Act 1991
10.	Sections 49, 50, 51, 52, 53 and 58 of the Drug Trafficking Act 1994
11.	Sections 11, 12, 13, 15, 16, 17, 18, 19, 21A, 21D, 36, 38B, 39, 47, 51, 54, 56, 57, 58, 58A, 60, 62, 63, 63A, 63B, 63C, 63D, 87, 89, 93, 94, 95, 96, 103, 116 of and paragraphs 3(7), 14(1), 15(4), 16(3), 19(7), 20(6), 32(3) of Schedule 5, paragraphs 1(3) and 8(2) of Schedule 6, paragraph 18 of Schedule 7, paragraphs 10(10), (11) of Schedule 10, paragraphs 12(1), (2) of Schedule 12 and paragraphs 2, 3, 4, 6(3), 15(1) and 16(3) of Schedule 13 to the Terrorism Act 2000
12.	Sections 327, 328, 329, 330, 331, 332, 333, 342, 359, 366, 393 and 400 of the Proceeds of Crime Act 2002
13.	Articles 3, 6(6), 10(3), 13(2), 15(10), 16(2), 21(4), 24, 27(6), 30(1), 35(9), 36(3), 37(4), 38(7), 39(3), 40(4), 41(5), 42(4), 43(5),

	44(6), 45(1), (2), (5), 49(5)(b), 51(2), 52(4), 53(5), 54(2), 55(5), 56(3), 58(2), 59(2), 60(1), 61, 62, 63, 64, 65, 66, 67, 72 and 72(2)(c) of the Firearms (Northern Ireland) Order 2004
14.	Articles 10, 15, 16, 21, 26, 27, 31, 32 of and paragraph 8(1) of Schedule 1, paragraphs 8 and 9 of Schedule 3 and paragraphs 3 and 12 of Schedule 3 to the Justice and Security (Northern Ireland) Act 2007
15.	Sections 25, 44, 45,46 and 81 of the Serious Crimes Act 2007
16.	Articles 1(7), 5(2), 9(3), 9(4), 11(2)(a), 16(1), 17(1), 28, and 45(6) of the Transport Act (Northern Ireland) 2011
17.	Regulations 17(1) and 18(1) of the Animals By-Products (Enforcement) Regulations (Northern Ireland) 2011
18.	Articles 1, 10 and 11 of the Scrap Metal Dealers Act 2013

Sealed with the Official Seal of the Department of the Environment on xxxxx 2014



Wesley Shannon
A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 2 of and Schedule 1 to the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulation (Northern Ireland) 1999 (the 1999 Regulations). They also amend regulations 2 to 5 of and Schedule 1 to the Waste Management Licensing Regulations (Northern Ireland) 2003 (the 2003 Regulations) which prescribes offences and establishes the accepted technical competencies for the purpose of determining if a person can be deemed a fit and proper person to hold a waste management licence. They also introduce a new Schedule (6) to the 2003 Regulations, which provides an updated list of offences.

Regulation 2 amends the 1999 Regulations.

Regulation 3(2) amends regulation 2 of the 2003 Regulations.

Regulation 3(3) updates regulation 3 of the 2003 Regulations.

Regulation 3(4) revokes regulation 4 of the 2003 Regulations, which was transitional and is outdated and no longer required.

Regulations 3(5) and 3(6) amend regulation 5 of the 2003 Regulations and reduce the maximum amount of time allowed to acquire technical certification from 2 years to 12-months.

Regulation 3(7) replaces Schedule 1 to the 2003 with an updated list of certificates of technical competence, which takes account of new waste technologies.

Regulation 3(8) inserts new Schedule 6 to the 2003 Regulations.

Rural Screening

	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification/Key Issues and groups to focus on
		Yes	No	Yes	No	
Rural	1. Does the policy apply in rural areas and communities? If NO: set out the reasons why If YES:		√		√	
	a. Does the policy have the potential to have a negative impact on rural areas and communities?		√		√	
	b. Does the policy have the potential to have a positive impact on rural areas and communities?		√		√	
	CONCLUSION				√	

When Is a Rural Impact Assessment Required?

If the answer to question 1 is yes, consideration should be given to undertaking a rural impact assessment. The following guidance applies:

If the answer to a. is yes, a rural impact assessment must be undertaken and the checklist completed.

If the answer to b is yes, the policy document should include a reference to how and why the impact will be positive.

List of Consultees

AES
 Age NI
 An Munia Tober
 Autism NI
 Baglady Productions
 Baha'i Council for NI
 Barnardos NI
 Belfast Butterfly Club
 Belfast Hebrew Congregation
 Belfast Solicitors Association
 Bishop of Down and Connor
 British Deaf Association (NI)
 Bryson Charitable Group
 Bryson Energy
 Bryson House
 Business in the Community
 Carafriend
 Carbon Trust
 Carers Northern Ireland
 Catholic Bishops of NI
 Chair of Livestock and Meat Commission
 Chartered Institute of Environmental Health
 Chief Environmental Health Officers Group
 Children's Law Centre
 Chinese Welfare Association
 Chrysalis Women's Centre
 Civil Law Reform
 CO3 Chief Officers 3rd Sector
 Coiste-na n-iar-chimi
 Commissioner for Older People for Northern Ireland
 Communication Access
 Community Development and Health Network NI
 Community Places
 Community Relations Council
 Confederation of British Industry
 Consumer Council NI
 Council for Nature Conservation and the Countryside
 Courts and Tribunal Service
 Cruse Bereavement Care (NI)
 Dairy UK
 Derry Well Woman
 Disability Action
 Donnelly Brothers
 Down's Syndrome Association
 Employers for Disability NI
 Equality Coalition
 Equality Commission for NI
 Falls Community Council
 Falls Women's Centre
 Family Planning Association NI
 Federation of Small Businesses
 Firmus

Food Standards Agency NI
Foyle Women's Information Network
Freight Transport Association
Friends of the Earth
Gingerbread NI
Green New Deal
Health and Social Care Trust
HM Council of County Court Judges
HM Revenue and Customs
Indian Community Centre
Information Commissioner's Office
Institute of Directors
Irish Congress of Trade Unions NI Committee
Law Centre (NI)
Limavady council
Linden Foods
Local Government Staff Commission for NI
Magherafelt Women's Group
Magistrates Court
MENCAP
Methodist Church in Ireland
Michelin Tyres
Ministry of Defence
Multi- Cultural Resource Centre
Mutual Energy
National Society for Prevention of Cruelty to Children
Newry & Mourne Women Ltd
North/South Ministerial Council
Northern Ireland Agricultural Producers Association
Northern Ireland Association for Mental Health
Northern Ireland Association for the Care and Resettlement of Offenders
Northern Ireland Association of Citizens Advice Bureaux
Northern Ireland Authority for Utility Regulation
Northern Ireland Chamber of Commerce and Industry
Northern Ireland Chamber of Trade
Northern Ireland Commissioner for Children and Young People
Northern Ireland Committee of the Irish Congress of Trade Unions
Northern Ireland Council for Ethnic Minorities
Northern Ireland Council for Voluntary Action (NICVA)
Northern Ireland Court Service
Northern Ireland District & Local Councils
Northern Ireland Electricity /Electricity Supply Board
Northern Ireland Environment Agency
Northern Ireland Environment Link
Northern Ireland Federation of Housing Associations
Northern Ireland Fire and Rescue Services
Northern Ireland Government Departments
Northern Ireland Health & Social Care Trusts
Northern Ireland Housing Executive
Northern Ireland Human Rights Commission
Northern Ireland Independent Retail Association
Northern Ireland Islamic Centre
Northern Ireland Judicial Appointments Commission
Northern Ireland Law Commission
Northern Ireland Local Government Association
Northern Ireland MEP's
Northern Ireland MLA's

Northern Ireland MP's
Northern Ireland Office
Northern Ireland Ombudsman
Northern Ireland Political Parties
Northern Ireland Public Service Alliance
Northern Ireland Renewables Industry Group
Northern Ireland Rural Women's Network
Northern Ireland Water
Northern Ireland Women's Aid Federation
Office of the Attorney General for NI
Office of the Lord Chief Justice
OXFAM
Parenting NI
Participation and Practice of Rights Project
Phoenix
POBAL
Polish Association Northern Ireland
Power NI
Presbyterian Church In Ireland
Quarry Products Association Northern Ireland
Royal National Institute of Blind People NI
Royal Society for the Protection of Birds
Rural Community Network
Rural Development Council
Rural Support
Save the Children
School of Law, Queen's University Belfast
School of Law, University of Ulster
SENSE NI
Short Brothers
Society of Local Authority Chief Executives
Southern Group Environmental Health Committee
Sustainable NI
The Cedar Foundation
The Environment Committee
The Executive Council of the Inn of Court NI
The General Consumer Council for NI
The Guide Dogs for the Blind Association
The Law Society of NI
The Rainbow Project
The Scottish Government
The Senior Citizens Consortium Sperrin Lakeland
The Women's Centre
Training for Women Network Ltd
Translink
Trocaire
Ulster Farmers Union
Ulster Language, Tradition and Cultural Heritage
Ulster Unionist Party
UNISON Northern Ireland
Volunteer Now
Women's Forum Northern Ireland
Women's Resource and Development Agency
Women's Support Network
World Wildlife Federation
Youth Justice Agency
Youthnet

arc21
Arena Network Belfast
Belfast Regeneration Office
British Library
Bryson Charitable Group
Catholic Bishops of NI
CEFNI
Chartered Inst of Environmental Health NI
Chartered Inst of Wastes Management NI
Civil Law Reform Division
Community Relations Council
Confederation of British Industry NI
Conservation Volunteers NI
Council for Nature Conversation and the Countryside
District Councils
District Judge – Magistrates’ Court
Education & Library Boards
Environment Committee NI Assembly
Environmental Health Group
Environmental Law Foundation
Environmental Protection UK
Equality Commission for NI
Equality Forum NI
Executive Council of the Inn of Court of NI
Federation of Small Businesses NI
Food Standards Agency NI
Friends of the Earth
General Consumer Council NI
HM Council of County Court Judges
HMRC
Human Rights Commission
Institute of Directors
Lands Tribunal
Law Centre NI
Law Society of NI
Local Government Technical Advisors Group
MLAs
Mourne Heritage Trust
National Library
National Trust
NIC/ICTU
NIPAK
Participation & the Practice of Rights Project
PSNI
OLC
QPANI
QUB, Law School
Royal Commission on Environmental Pollution
RSPB
Royal Society for Public Health
Society of Local Authority Chief Executives
SWaMP2008
Sustainable NI
UFU
Ulster Wildlife Trust
University of Ulster Law School
Woodland Trust NI