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Waste Management- Technical Competence for Operators of Authorised Waste Facilities

WASTE MANAGEMENT

TECHNICAL COMPETENCE FOR OPERATORS OF AUTHORISED WASTE FACILITIES

Background

1.1 Purpose and Scope

- 1.1.1 This document provides detailed guidance on the provision of Technically Competent Management for licensed or permitted waste management activities. The guidance is intended for use by NIEA staff, operators of licensed or permitted activities and applicants for licenses or permits.
- 1.1.2 Technically Competent Management is a requirement of the Waste Management Licensing regime created under Part II of The Waste and Contaminated Land (Northern Ireland) Order 1997 and The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (in relation to ‘specified waste management activities’). This guidance is applicable under both regimes.
- 1.1.3 The Landfill Regulations (Northern Ireland) 2003 introduce a further test of operator competence relating to the provision of ‘adequate professional technical development and training’, but that test is outside the scope of this document.

1.2 The Origins of Technically Competent Management

- 1.2.1 Article 3 of The Waste and Contaminated Land (Northern Ireland) Order 1997 requires that the Department of the Environment (the Department) determine whether a person is a fit and proper person to hold a waste management licence. As part of this determination the Department must establish that the management of the activities which are to be authorised by the licence will be in the hands of a technically competent person. Article 3(5) provides that the Department may by Regulation; prescribe the qualifications and experience required of a person for this purpose.
- 1.2.2 Regulations 3 to 5 of The Waste Management Licensing Regulations (Northern Ireland) 2003 (WML Regulations), as amended by The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015, prescribe the necessary qualifications and experience.

Regulation 3 and Schedule 1 in The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015 state that a person is technically competent if, in relation to a facility of a type listed in Schedule 1 (Table 1), he holds a relevant **Operator Competence Certificate** awarded by the Waste Management Industry Training and Advisory Board (WAM ITAB). **This is a change from the previously accepted Certificate of Technical Competence.**

- 1.2.3 Enquiries relating to the award scheme or Operator Competence Certificates should be addressed to:
WAM ITAB
Peterbridge House
3 The Lakes
Northampton
NN4 7HE
Tel: 01604 231950 Website: <http://www.wamitab.org.uk/>

Enquiries relating to a specific application or licence should be addressed to:

Jo Hall
Northern Ireland Environment Agency
Klondyke Building
Cromac Avenue
Gasworks Business Park
Malone Lower
Belfast
BT7 2JA
Tel: 028 9056 9758

Enquiries relating to a specific application or waste permit should be addressed to:

David Toland
Northern Ireland Environment Agency
Klondyke Building
Cromac Avenue
Gasworks Business Park
Malone Lower
Belfast
BT7 2JA
Tel: 028 9056 9747
Email: david.toland@doeni.gov.uk

1.3 Application of Technically Competent Management under The Waste Management Licensing Regulations (Northern Ireland) 2003, as amended by The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015

- 1.3.1 Regulation 3 of The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015, prescribes that a person is technically competent if he is the holder of the relevant Operator Competence Certificate awarded by WAM ITAB. The effect of this provision is that gaining the relevant WAM ITAB certificate is the way to demonstrate technical competence in relation to any of the types of facility listed in that Regulation.
- 1.3.2 The EU Services Directive requires the mutual recognition of qualifications across Member States (MS). This mostly applies to certificates that are personal to the holder. Therefore, someone who has acquired certification as a technically competent waste operator in another part of the UK or another MS 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. The requirement to update certification every two years also applies here and will ensure that all waste operators in Northern Ireland have adequate skills and knowledge to protect the environment and human health as required by the Waste Framework Directive.

1.4 Proof of Technical Competence

1.4.1 Proof of technical competence will be required by the Department in respect of each person in whom the management of a site may be vested. There will be two ways of providing this proof, depending on the type of site involved.

- (i) For sites covered by the WAM ITAB/NCVQ system, i.e. those listed in Schedule 1 (Table 1) to the WML (Amendment) Regulations, the Department need only confirm the appropriate qualification by production of the relevant WAM ITAB certificate by the operator.
- (ii) For sites not covered by the above system, the Department needs to 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 or persons operating it.

1.4.2 WAM ITAB certificates are assessed at the workplace in relation to the actual work of managing the relevant type of facility. To gain a certificate, a candidate must demonstrate a wide range of management competencies and technical knowledge.

1.5 Application of Technically Competent Management under The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013

1.5.1 The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 require that if any specified waste management activity is, or is to be authorised at a PPC installation, the Department must not grant or transfer a permit unless the operator is a fit and proper person in relation to that activity.

1.5.2 Specified waste management activities are defined in Regulation 2 of the IED Regulations as:-
Any one of the following activities-
- the disposal of waste in a landfill, whether or not the disposal falls within Section 5.2 of Part 1 of Schedule 1;
- the disposal or recovery of hazardous waste falling within Section 5.3 of that part of that Schedule;
- the disposal or recovery of non-hazardous waste falling within Section 5.4 of that part of that Schedule;
- the temporary storage of waste falling within section 5.5 of that part of that Schedule;
- the underground storage of waste falling within section 5.5 of that part of that Schedule;

1.5.3 The test for technical competence in respect of Fit and Proper Person (FAPP) is set out in Regulation 4 (5)b as follows:

“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).

2. The System of WAMITAB Awards

2.1 Operator Competence Certificate

- 2.1.1 Schedule 1 of The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015 provides a list of the minimum relevant Operator Competence Certificate required for each type of facility listed, where activities are authorised by either a waste management licence or a pollution prevention and control permit.
- 2.1.2 The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015 has changed the requirement from an operator requiring a Certificate of Technical Competence, issued by WAMITAB, to requiring an Operator Competence Certificate, issued by WAMITAB. This change in regulation reflects the changes in the waste industry in recent years, which takes account of new technologies.
- 2.1.3 For those facilities excluded from Schedule 1, NIEA will carry out an assessment of a manager's competence.

2.2 New Awards

- 2.2.1 There are a number of additions of types of activity to the WAMITAB Scheme, which are reflected in Schedule 1 to The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015.

2.3 Transitional Arrangements

- 2.3.1 There are no longer any transitional arrangements available, as the previous transitional arrangements are outdated and no longer required, and have been revoked by The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015.

2.4 Validity of Awards

- 2.4.1 Operators are required to demonstrate that the technically competent person, required under Article 3(3)(b) of the 1997 Order, holds the relevant Operator Competence within 12 months of the date of coming into operation of The WML (Amendment) Regulations. Those currently already holding Certificates of Technical Competence will have 24 months from the coming into operation of the new regulations, to acquire the relevant Operator Competence Certificate. Up until that date, current Certificates of Technical Competence will be taken by NIEA as demonstrating the correct level of technical competence for a facility.
- 2.4.2 A person holding an Operator Competence Certificate must undertake an assessment every 24 months to ensure that the competence is kept up to date.

3. Management Responsibility and Attendance at Site

3.1 Management Responsibilities

3.1.1 It is up to the Operator to provide a robust management structure for each facility to ensure that the management of the authorised activities is in the hands of a Technically Competent Person (TCP). This management system should be clearly demonstrable to NIEA.

3.1.2 The law on Technical Competence requires that the management of activities authorised by the licence/permit is in the hands of a TCP. For Waste Management Licences, “management” in this context means that the TCP is in a position to control the day -to-day activities authorised by the licence and carried on at the licensed site.

3.1.3 In assessing whether Technically Competent Management is provided there are three key considerations:

(a) Are the activities in question authorised by the licence/permit and carried out at the authorised site?

Where some of the activities on site are outside the scope of the licence/permit, they should be disregarded for the purpose of assessing technical competence.

(b) Does the manager nominated as the TCP meet the requirements for technical competence as set out in the legislation?

The requirements are detailed in Regulation 3 and Schedule 1 of The WML (Amendment) Regulations.

(c) Is the manager nominated as the TCP in a position to control the day -to-day activities referred to?

The TCP should be able to ensure that the control of day-to-day activities can be achieved through:

- The effective Operation of the management structure as it applies to the particular site, providing the right mix of qualified, experienced and trained staff to plan, supervise and support operations
- Application of appropriate control mechanisms in the form of quality systems and protocols

It is therefore essential that the TCP attends the site for regular and appropriate periods of time to ensure that the management structure is operated effectively and the control mechanisms are applied.

3.1.4 Technically competent management of an authorised site may be provided by more than one person. In these circumstances, each person must demonstrate technical competence. This allows Operators to provide control of day-to-day activities through more than one TCP so that the requirement for onsite presence may be shared.

3.1.5 Any changes to the technically competent management of a site are to be reported to NIEA detailing the changes and

- providing the names and qualifications of any new TCP

- where he/she fits into the management structure
- a comprehensive schedule of sites allocated to the person.

3.2 Site Attendance

- 3.2.1 Personal attendance at the facility by the TCP forms a key element of the site management. This would normally be accompanied by the management instructions and procedures to ensure full control over the activities.
- 3.2.2 NIEA considers that in most cases, the minimum period of time a technically competent person should be on site is 25% of the operating hours of the site. A site is considered operational whenever it is either accepting or removing waste, or undertaking any process or activity involving waste that is under the day-to-day control of the TCP. Where the operational hours vary, these changes should be logged, together with the TCP's site attendance in the site diary.

However, for complex sites, or where there is a poor level of compliance with the waste authorisation, NIEA may impose up to a 100% time period on the operator.

Conversely, NIEA may agree to reduce the minimum period of time a technically competent person should be on site in respect of small scale amenity sites (those accepting less than 5,000 tonnes of waste per year) and other small facilities for which the operator can demonstrate that adequate management controls can be provided through alternative means.

- 3.2.3 In this context the working week commences Sunday midnight and concludes on the following Sunday at midnight.
- 3.2.4 A record of the site attendance of the TCP together with the weekly operational hours should be made for example in the site diary and made available for inspection by NIEA.
- 3.2.5 An overall 'cap' of 48 hours (in line with the European Working Time Directive on working week hours) for site attendance will be applied to all facility types.
- 3.2.6 For two or more separately authorised facilities where:
- They are in the hands of the same licence holder or Operator,
- and*
- They share a common boundary

then NIEA will give consideration to assimilating the site attendance requirements of the facilities.

For example where there is a separately authorised civic amenity site on a landfill site, the attendance requirements of the landfill will satisfy the attendance requirements for both facilities by a TCP holding both the relevant awards.

4. Regulatory Approach

- 4.1.1 The Northern Ireland Environment Agency will monitor management control and attendance of technically competent management at licensed or permitted facilities through routine compliance assessment visits and extended site audits.
- 4.1.2 If the holder of the licence or permit is no longer a fit and proper person by reason of the management of the activities having ceased to be in the hands of a technically competent person, the licence or permit will normally be suspended so that it no longer permits the keeping, treating or disposal of waste until the management of the activities is in the hands of a TCP.
- 4.1.3 NIEA may continue to review operator competence at any time and may refuse an application or a renewal or revoke a waste management licence if it considers the operator is not competent, that is, does not comply with licence conditions. 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.