

**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)  
Regulations (Northern Ireland) 2015**

29<sup>th</sup> January 2015



Department of the  
**Environment**

[www.doeni.gov.uk](http://www.doeni.gov.uk)

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## **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:-

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:-

Additionally, a partial Regulatory Impact Assessment was carried out. This can be found in Annex 2 of the document. Rural screening was also carried out and the results can be found at Annex 3 to this document.

### **Timing**

The commencement date of this consultation is 29<sup>th</sup> January 2015 and it will close on the **23<sup>rd</sup> April 2015**

### **How to respond to this consultation**

Responses can be sent:

**By email to:** [wdr@doeni.gov.uk](mailto:wdr@doeni.gov.uk)

**By post to:** Waste & Radioactivity Team  
Department of the Environment  
Environmental Policy Division  
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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](mailto: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 and Contaminated Land (Northern Ireland) Order 1997 (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.

Between 9th July and 30th September 2014, the Department consulted upon the draft Waste Management Licensing (Amendment No. X) Regulations (Northern Ireland) 2014 which detailed proposed amendments to the prescribed offences *and* technical competence elements of the Fit and Proper Person test (FPP test) established by way of regulations 2 to 5 of the Waste Management Licensing Regulations (NI) 2003 (the 2003 Regulations).

As a result of issues raised in response to the consultation process, it was decided to revisit the draft Regulations. A key difference is that it has now been decided to amend the prescribed offences and technical competency elements of the 2003 Regulations separately. This consultation is on the amended proposals in relation to the technical competence element only.

Whilst the fundamental policies in relation to the Fit and Proper Persons elements of waste management licensing remain broadly the same as those consulted upon previously, the proposed changes update further the qualifications available for waste management operators, tying them more closely to those provided by WAMITAB and ensuring greater parity with the rest of the UK.

## 1. **PURPOSE**

- 1.1 The purpose of this document is to consult upon the proposed Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015, which supersede the proposals detailed in the previous consultation document and apply only to the technical competence element of the Fit and Proper Persons test.

## 2. **TECHNICAL COMPETENCE**

### **Background**

- 2.1 Article 3(3)(b) of the 1997 Order requires that anyone operating under a waste management licence must be technically competent to do so.
- 2.2 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.
- 2.3 The Department is proposing to amend all three regulations and the associated Schedule. Previous proposals were detailed in the Waste Management Licensing (Amendment No.X) Regulations (NI) 2014 consultation released in July 2014: [http://www.doeni.gov.uk/consultation\\_document\\_-\\_waste\\_management\\_licensing\\_amendment\\_no.\\_x\\_regulations.pdf](http://www.doeni.gov.uk/consultation_document_-_waste_management_licensing_amendment_no._x_regulations.pdf)

However, as stated above, as a result of responses to that consultation from the industry in particular, it was decided to revisit the draft Regulations.

- 2.4 As the Regulations currently stand, the information contained in Schedule 1 is out of date. They refer to Certificates of Technical Competence (CoTCs) which are 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 2003 Regulations (as amended). However, elsewhere in the UK the CoTC has been replaced by an Operator Competence Certificate (OCC). Therefore, to ensure parity and avoid confusion for those working in the waste industry across the UK, the requirement to obtain a CoTC will be replaced by the requirement to hold a relevant OCC. OCCs are acceptable to the Department as demonstrating that the operator has acquired the correct level of technical competence in the operations he/she is carrying out and can be obtained from [WAMITAB](#). It is proposed, therefore, to update the Schedule to replace the current training and CoTCs with OCCs.
- 2.5 The previous consultation specified that new technologies, such as Anaerobic Digestion and Thermal Treatment will be addressed in these latest amendments and this position is unchanged. However, it was also proposed to remove 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. This proposal was welcomed by all who responded but it was pointed out that the

proposed Schedule of competencies did not include any Certifications specific to these activities. This was an error and the new proposals have redressed this omission and include the OCCs that all scrap metal dealers and those who dismantle motor vehicles will be required to obtain.

- 2.6 Respondents also voiced concerns that some of the existing Certificates are over 10 years old and do not contain competencies for newer technologies and thinking on waste management, yet, whilst there is provision to update the competencies/certificates available, there is no requirement on waste operators to ensure that skills and knowledge keep pace with changes made across the waste management industry, such as the introduction of new legislation, technologies and techniques. Therefore, in response to this, the Department is proposing that technical competence should be renewed every two years. This proposed change also ensures parity with the rest of the UK.
- 2.7 As a result of this it will be necessary for those currently holding old certificates to update their certification. Accordingly, the Department is providing a transitional period of 12 months from the date of operation of the proposed Regulations to allow existing operators to replace their existing CoTCs with relevant OCCs.
- 2.8 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 would also apply here and would 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.
- 2.9 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.

## **Options**

- 2.10 Option 1 – Do nothing. This was not an option, the outdated legislation needed to be amended to be current.
- 2.11 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 3 will be amended to include provisions to allow operators holding outdated certification to update their certificates and to require certificates to be kept current by way of biannual assessments.
- 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 currently sets out that where someone has applied for certification as a technically competent person (a relevant OCC); 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, which will be inclusive of all waste activities. However, where an activity is exempted from a waste management licence (for example, due to scale or level of risk), the relevant OCC is not required.
- Paragraph 43 of Part 1 of Schedule 2 to the 2003 Regulations will be revoked.

2.12 Option 3 – revoke the legislation and apply the technical competence element of the Fit and Proper Persons test by way of guidance. Again this was not a viable option as the Primary legislation requires technical competence to be prescribed via Regulations. However, the Department intends to introduce environmental permitting as part of its Better Regulation programme and it may consider this issue for inclusion. This would not, however, address the immediate issues, therefore, this option is not considered appropriate at this time.

2.13 The Department has chosen Option 2.

**Question 1: 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 2: Do you agree that existing operators holding outdated certificates should be required to update their certificates and that a transitional period of 1 year is adequate to allow for this to happen?**

**Question 3: Do you agree that requiring the renewal of certificates every 2 years will help to ensure that operators are fully trained in the most up to date technologies, practices etc, which will provide the best levels of protection? Please explain your answer.**

**Question 4: Do you agree that 1 year is sufficient to allow an operator to obtain full certification under regulation 5? Please explain your answer.**



### 3. IMPACT

- 3.1 The changes to the list of technical competencies will allow those operating facilities with newer technologies to obtain appropriate OCCs.
- 3.2 The biannual renewal of certification will ensure that waste operators keep pace with changes made across the waste management industry, such as the introduction of new legislation, technologies and techniques.
- 3.3 The requirement for renewal of certification will also apply to existing operators, who hold older certificates. They will be required to obtain continuing competence certification within 2 years from the date of operation of these Regulations to ensure that those currently working in the waste industry in Northern Ireland are qualified in the most up-to-date waste technologies and practices, which, in turn will provide better protection for the environment and human health.
- 3.4 The reduction of the 'period of grace' in regulation 5 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.
- 3.5 There will be a slight increase in costs to the industry associated with the proposed changes. The renewal of certification will cost between £120 and £225 every two years, dependent on the operation involved and, consequently, on the level of certification required.
- 3.6 The proposed changes do not impact on the human rights of legitimate operators.

**Question 5: Do you agree with these impact statements. If not, please explain your answer.**

**Question 6: Please indicate if you think there are further impacts that have not been considered.**

### 4. LEGISLATIVE PROPOSALS

- 4.1 The draft Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015 are attached as Annex 1.

**Question 7: Do you think the Regulations:**

**(a) Fully reflect the changes necessary to ensure that the Technical Competence element of the Fit and Proper Persons test is 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.***

**2015 No.****ENVIRONMENTAL PROTECTION****The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015**

*Made* - - - - - xxxxx 2015  
*Coming into operation* - xxxxx 2015

The Department of the Environment, in exercise of the powers conferred by Article 3(5) of the Waste and Contaminated Land (Northern Ireland) Order 1997<sup>(1)</sup> makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015 and shall come into operation on xx xxx 2015.

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

2.—(1) The Waste Management Licensing (Regulations) (Northern Ireland) 2003<sup>(2)</sup> are amended in accordance with paragraphs (2) to (6)—

(2) For regulation 3 (Technical competence) substitute—

“3—(1) 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 (management of activities to be in the hands of a technically competent person).

(2) A person holding an existing Certificate of Technical Competence shall be required to acquire a relevant up to date qualification as detailed in Schedule 1 within 12 months of the date of operation of these Regulations.

(3) A person who has acquired technical competence must undertake an assessment every 24 months to ensure that that competence is kept up to date.”

(3) Regulation 4 (Technical competence-transitional provisions) is revoked.

(4) In regulation 5 (Pre-qualification technical competence) in (1) for paragraph (a) substitute—

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

(5) 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 activity 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.”

<sup>(1)</sup> S.I. 1997/2778 (N.I. 19) as amended

<sup>(2)</sup> S.R. 2003 No. 493 as amended

**SCHEDULE 1**

Regulation 3

**Operator Competence Certificate Codes**

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 carry on an activity of a description listed in the Table below 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 activity in that Table; or for operations not covered by WAMITAB, the Department will make its own assessment of technical competence, based primarily on the specific activity and the knowledge and experience in waste management practice of the person wishing to operate it.

2. Anyone carrying out an activity listed in the Table must obtain a relevant Operator Competence Certificate except where that activity is being carried out by way (virtue) of an exemption from waste management licensing. In the event of a person carrying out activities without the appropriate level of qualification, that person will not be deemed to be a fit and proper person, which may result in that person's application being refused or their licence being revoked.

**Table 1 – Operator Competence Certificate Codes**

	<i>Type of Activity</i>	<i>Minimum Relevant Operator Competence Certificate</i>
1.	Managing a landfill site for hazardous waste	4MLH
2.	Managing a landfill site for hazardous waste – single waste stream	4MLHS
3.	Managing a landfill site for non-hazardous waste	4MLNH
4.	Managing a landfill site for non-hazardous waste – single waste stream	4MLNHS
5.	Managing a landfill site for inert waste with a total capacity of greater than 50,000 cubic metres	4MLI or 4MLI6
6.	Managing a landfill site for inert waste with a total capacity of greater than 50,000 cubic metres – single waste stream	4MLIS or 4MLI6
7.	Managing a closed landfill site for hazardous waste	4MCL
8.	Managing a closed landfill site for hazardous waste – single waste stream	4MCL
9.	Managing a closed landfill site for non-hazardous waste	4MCL
10.	Managing a closed landfill site for non-hazardous waste – single waste stream	4MCL
11.	Managing a closed landfill site for inert waste with a total capacity of greater than 50,000 cubic metres	4MCL6
12.	Managing a closed landfill site for inert waste with a	4MLIC6

	total capacity of greater than 50,000 cubic metres – single waste stream	
13.	Managing a treatment plant where hazardous waste is subjected to a chemical or physical process	4MPTH
14.	Managing a treatment plant where hazardous clinical waste is subjected to a chemical or physical process	4MTTHC
15.	Managing a treatment plant where hazardous waste is subjected to a chemical or physical process for the remediation of contaminated land	4MPTHR or 4MPTHR6
16.	Managing a treatment plant where non-hazardous waste is subjected to a chemical or physical process	4MPTNH or 4MPTNH6
17.	Managing a treatment plant where non-hazardous waste is subjected to a composting process	4MBTNHO or 4MBTNHI or 4MBTOW6 or 4MBTIV6
18.	Managing a treatment plant where non-hazardous waste is subjected to a chemical or physical process for the remediation of contaminated land	4MPTNHR or 4MPTNHR6
19.	Managing a treatment plant where non-hazardous clinical waste is subjected to a chemical or physical process	4MTTNHC or 4MTTNHC6
20.	Managing a treatment plant where inert waste is subjected to a chemical or physical process	4MTMI or 4MTMI4
21.	Managing a transfer station for hazardous waste where the capacity of the facility is greater than 5 cubic metres	4MTSH
22.	Managing a transfer station for hazardous clinical waste where the capacity of the facility is greater than 5 cubic metres	4MTSHC
23.	Managing a transfer station for non-hazardous waste where the capacity of the facility is greater than 5 cubic metres	4MTSNH or 4MTSNH6
24.	Managing a transfer station for inert waste where the capacity is greater than 50 cubic metres	4MTSI or 4MTSI4
25.	Managing a civic amenity site where the amount of waste accepted is 5,000 tonnes per annum or less	4MCAS or 4MCANH6 or 4MCAH6
26.	Managing a civic amenity site where the amount of waste accepted is greater than 5,000 tonnes per annum	4MTSH or 4MTSNH or 4MTSNH6
27.	Managing a 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	4MTTH
28.	Managing a treatment plant where non-hazardous waste is subjected to biological treatment: storage of digestate from anaerobic digestion plants	4MBTNHA or 4MBTSAD6

29.	Managing a treatment plant where non-hazardous waste is subjected to biological treatment: anaerobic digestion facility including use of resultant biogas	4MBTNHA or 4MBTAD6
30.	Managing a treatment plant where non-hazardous waste is subjected to biological treatment: on-farm anaerobic digestion facility including use of resultant biogas	4MBTNHA or 4MBTFAD6
31.	Managing a treatment plant where non-hazardous waste is subjected to thermal treatment process	4MTTNH
32.	Managing a treatment plant where hazardous waste is subjected to thermal treatment process	4MTTH
33.	Managing a treatment plant where hazardous waste is subjected to thermal treatment process: autoclaving	4MTTHA
34.	Treatment of land for reclamation, restoration or improvement of land	4MTRR6
35.	Mobile plant for treatment of land for land reclamation, restoration or improvement	4MTMPRR6
36.	Mobile plant for the treatment of asphalt waste containing coal tar	4MTMPA6
37.	Deposit in lagoons of non-hazardous dredgings from waterways	4MLNHL6
38.	Storage and treatment of dredgings for recovery	4MLNHSD6
39.	Use of waste to manufacture timber or construction products	4MTMTC6
40.	Treatment of waste wood for recovery	4MTMTR6
41.	Managing a civic amenity site non-hazardous	4MCANH6
42.	Managing a civic amenity site hazardous	4MCAH6
43.	Managing a Material Recovery Facility	4MTMRF6
44.	End of Life Vehicle facilities (vehicle storage, depollution and dismantling)	4MTELV6
45.	Managing a Metal Recovery Site (MRS) (wet scrap e.g. oily metal swarf – free flowing liquid)	4MTMRS6
46.	Composting in Open Windrows	4MBTOW6
47.	Composting in closed vessels	4MBTIV6
48.	Mechanical Biological Treatment (MBT)	4MTMBT6
49.	Managing a WEEE ATF – physical treatment	4MTHWE6
50.	Mobile plant for land spreading (land treatment resulting in benefit)	4MTMPL6
51.	Mobile plant for land spreading of sewage sludge (land treatment resulting in benefit)	4MTMPLS6

52.	Non-hazardous sludge biological, chemical & physical treatment	4MTMNHS6
53.	Managing other mobile treatment facilities (non-hazardous)	4MTMPO6
54.	Use of waste in construction	4MTSCO4
55.	Mobile plant for treatment of waste to produce soil, soil substitutes and aggregate	4MTMPS4
56.	Treatment of waste to produce soil, soil substitutes and aggregate	4MTMS4
57.	In-house storage of waste	4MTSIHS4
58.	MRS dry scrap (including separately collected batteries) no free flowing liquid	4MTMRS4
59.	WEEE (storage only)	4MTSWE4
60.	Managing thermal treatment – hazardous waste: pyrolysis and gasification	4MTTHPG
61.	Managing thermal treatment – non-hazardous waste: pyrolysis and gasification	4MTTNHPG
62.	Managing thermal treatment – non-hazardous waste: autoclaving	4MTTNHA
63.	Storage of electrical insulating oil	4MTSEOI6

3. 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 19<sup>th</sup> 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.”

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend regulations 3 to 5 of and Schedule 1 to the Waste Management Licensing Regulations (Northern Ireland) 2003 (the 2003 Regulations) and prescribe 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.

Regulation 2(2) updates regulation 3 of the 2003 Regulations and introduces the requirement for existing operators to obtain up to date certification within 12 months of the operational date of these Regulations. It also introduces a requirement for operators to renew their certification every 2 years.

Regulation 2(3) revokes regulation 4 of the 2003 Regulations, which was transitional and is outdated and no longer required.

Regulations 2(4) and 2(5) 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 2(6) replaces Schedule 1 to the 2003 with an updated list of operator competence certificates, which takes account of new waste technologies.



# **PARTIAL REGULATORY IMPACT ASSESSMENT**

## **DRAFT WASTE MANAGEMENT LICENSING (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2015**

### **Summary**

#### **Purpose**

The purpose of this Regulatory Impact Assessment is to allow full consideration of the impact of the proposed draft Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015.

The proposed changes will impact mostly on those who hold or apply for a waste management licence or transport waste.

#### **What is the problem under consideration?**

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. As the Regulations stand, the information contained in Regulations 3 – 5 and Schedule 1 are out of date. Schedule 1 does not take account of qualifications required for more up-to-date waste technologies.

Regulation 3(2) provides an exclusion from the requirement to be technically competent for scrap metal dealers and those who dismantle motor vehicles. These waste activities have the potential to create significant risk of pollution and harm to health.

#### **What are the policy objectives and the intended effects?**

The policy objectives are:

- Update the Regulations to remove the exclusions for vehicle dismantlers and scrap metal dealers
- Include relevant training and qualification requirements for new waste activities.
- Remove any Regulations that are no longer relevant
- Ensure continuing technical competence on the part of waste operators in NI
- To ensure parity throughout the UK.

#### **What policy options have been considered?**

1. Do nothing
2. Amend the 2003 Regulations

#### **Benefits - Option 1**

The Department could find no benefits in the 'do nothing' option.

## **Disbenefits - Option 1**

It would not bring about actions that would:-

- prevent pollution and potential danger to human health
- ensure compliance with European legislation and parity with the rest of the UK
- provide assurances that those acting as waste operators were sufficiently competent to do so

## **Benefits - Option 2**

The Department will be better equipped:-

- to ensure compliance with European legislation
- to prevent pollution and potential danger to human health
- to ensure that the rights of those affected by the proposed legislation are also protected by that legislation
- to ensure legitimate business is not disadvantaged by illegal waste activities
- to expand the list of required technical competence certificates in the future

## **Disbenefits - Option 2**

If the 2003 Regulations are not amended:-

- Northern Ireland will be out of step with legislation and practices in the rest of the UK
- newer waste activities will not be covered in the regulations
- NIEA regulatory officers will find it more difficult to determine whether waste operators are technically competent to operate their facilities
- the potential for harm to the environment and human health would remain
- waste companies operating in advanced technologies will find it difficult to operate in Northern Ireland

## **Other Impact Assessments**

An Equality Screening exercise under Section 75 of the Belfast Agreement and a Rural Proofing Screening exercise have been carried out and, given the all-inclusive nature of the proposed policy/legislation, it was agreed that there was no need to carry out full impact assessments for these areas. Both screening documents will be included within the consultation documentation to ensure transparency.

It is believed that the proposed Regulations are compatible with the Human Rights Act 1998.

## **Costs**

There will be a small administrative cost associated with the publication of the Regulations and with the advertising associated with the consultation document.

There will be a slight increase in costs to the industry associated with the proposed changes. The renewal of certification will cost between £120 and £225 every two years, dependent on the operation involved and, consequently, on the level of certification required.

## **Consultation with Small Businesses**

A number of small businesses will receive the consultation document as well as umbrella organisations. The consultation will be available on the DOE website for anyone who wishes to

download it, free of charge. Its publication will be advertised in the press. There is no restriction on who can respond to the consultation. Should any particular group or individual request it the Department will meet with them to discuss the issues covered by the consultation in more depth.

## **Enforcement and Sanctions**

Article 4 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (the 1997 Order) makes it an offence for anyone to carry out a waste operation without having a licence to do so. Article 5 of the 1997 Order places a duty of care on anyone who imports, produces, collects, carries, keeps, treats, or disposes of controlled waste or as a broker or dealer has control of such waste, to take all such measures as are necessary to ensure that all waste is handled in a way that is legal and that poses no threat to the environment or human health. Anyone who does not comply with the requirements of Article 5 is committing an offence. Furthermore, under Article 38 of the 1997 Order it is an offence to transport waste without registering as a waste carrier. All of these offences shall be liable-

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine.

## **Consultation**

A 12-week consultation will take place. Consultation on the policy and draft legislation will take place with the following broad groups:-

- All NI Government Departments
- All Education Boards and Health Trusts and other Public Bodies
- All Section 75 Groups
- All Political Parties/Elected Representatives
- NI 3 Waste Management Groups and NILGA
- All NI District Councils
- Waste Industry and/or their representative bodies
- Voluntary Sector Groups

## **Summary and Recommendation**

It is recommended that legislation is introduced which will allow the Department to:

- allow environmental crime to be addressed more effectively;
- protect the environment and human health;
- ensure parity with the rest of the UK;
- address a distortion in the waste market; and
- protect the rights of those affected.

## **Declaration**

**“I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.”**

**Signed .M. Durkin.....**  
**Mark H. Durkin**  
**Minister of the Environment**  
**Department of the Environment**

**Date** .27/1/2015.....

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## Rural Screening

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

### 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-iarchimi  
 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