



STATUTORY INSTRUMENTS.

S.I. No. 32 of 2010



WASTE MANAGEMENT (REGISTRATION OF SEWAGE SLUDGE
FACILITY) REGULATIONS 2010

(Prn. A10/0131)

WASTE MANAGEMENT (REGISTRATION OF SEWAGE SLUDGE
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STATUTORY DECLARATION

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OFFENCES TO BE DISCLOSED

S.I. No. 32 of 2010

WASTE MANAGEMENT (REGISTRATION OF SEWAGE SLUDGE
FACILITY) REGULATIONS 2010

WHEREAS, I, JOHN GORMLEY, Minister for the Environment, Heritage and Local Government, having regard to section 3(3) of the European Communities Act, 1972 (No. 27 of 1972) (as inserted by section 2 of the European Communities Act 2007) (No. 18 of 2007), consider it necessary for the purpose of giving effect to the provisions of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006¹ to make provision for offences under the following regulations to be prosecuted on indictment:

AND WHEREAS, I consider that it is necessary, having further regard to section 3(3) of the European Communities Act, 1972 (No. 27 of 1972) (as inserted by section 2 of the European Communities Act 2007) (No. 18 of 2007), for the purpose of ensuring that penalties in respect of an offence prosecuted in that manner under the following regulations are effective, proportionate and have a deterrent effect, having regard to the acts or omissions of which the offence consists, to make such provision in the following regulations:

NOW THEREFORE, I, JOHN GORMLEY, Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on me by section 7 of the Waste Management Act, 1996 (No. 10 of 1996) and section 3 of the European Communities Act, 1972 (No. 27 of 1972), as amended by section 2 of the European Communities Act 2007 (No. 18 of 2007), and for the purpose of giving effect to Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006¹ hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Waste Management (Registration of Sewage Sludge Facility) Regulations 2010.

(2) These Regulations shall come into effect on 1 March 2010.

Purpose and scope of Regulations

2. (1) These Regulations are made for the purpose of giving effect to provisions of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste¹.

(2) The following shall be excluded from the scope of the Regulations:

(a) sewage treatment plants for which a waste licence is in force, and

¹OJ L 114, 27.4.2006, p.9

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 2nd February, 2010.*

(b) sewage treatment plants regulated by the European Communities (Waste Water Treatment) (Prevention of Odours and Noise) Regulations 2005 (S.I. No. 787 of 2005).

(3) Temporary short-term storage of sewage sludge at the location of use when this is part of an active waste recovery such as use in agriculture shall be excluded from the scope of the Regulations where the storage period is no greater than required to facilitate the land spreading activity.

Interpretation generally

3. In these Regulations:—

(1) any reference to a Regulation, Schedule or paragraph, which is not otherwise identified, is a reference to a Regulation or Schedule of these Regulations or to a paragraph of the provision in which the reference occurs;

(2) “Act” means the Waste Management Act, 1996 (No. 10 of 1996) as amended;

(3) “animal by-products” have the meaning assigned to them by article 2 of Regulation (EC) No. 1774/2002² (as amended) and article 3 Regulation (EC) No. 1069/2009³;

(4) “Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act, 1992;

(5) “environmental pollution” is as defined in the Act;

(6) “waste licence” is as referred to in the Act;

(7) “sewage sludge facility” means a centre dedicated to receiving sludge generated at sewage treatment plants and septic tanks at which the sludges will be stored prior to onward treatment, disposal or recovery at other locations.

Register of sewage sludge facilities

4. (1) The local authority shall enter particulars of all sewage sludge facilities registered by it pursuant to these Regulations in the register established and maintained by it pursuant to section 19 of the Act.

(2) For the purposes of Regulation 4(1), the local authority may prescribe the information to be entered therein, and the form and manner in which such information shall be entered and maintained, which information shall include, but not necessarily be limited to, the name and address of operator to whom a certificate of registration has issued.

(3) All entries and additions made by the local authority to the register referred to in Regulation 4(1) for the purposes of these Regulations are prescribed for the purposes of section 19 of the Act.

²OJ L273, 10.10.2002, p.1.

³OJ L300, 14.11.2009, p.1.

(4) Where the local authority registers a sewage sludge facility operated by it they shall forward a copy of the registration to the Agency.

Duty of operator of sewage sludge facility to register with the local authority

5. Subject to the provisions of Regulation 6, each operator of a sewage sludge facility shall apply for registration to the local authority in whose functional area the facility is situated not later than 28 February 2010 or the date of commencement of business whichever is the later.

Contents of an application for a certificate of registration

6. (1) Without prejudice to Regulation 6(2), an application for registration under Regulation 5 shall be made in writing or electronically in such form as may be determined by the local authority and shall require from each operator of a sewage sludge facility (hereafter referred to as the applicant) such information or material or both as may be prescribed by the local authority which may *inter alia* include:

- (a) the full name of the applicant,
 - (b) all business names used or proposed to be used by the applicant in the course of any business, trade or occupation carried out by the said applicant,
 - (c) the address of the applicant's principal place of business and, where applicable, the applicant's telephone number, telefax number and e-mail address,
 - (d) if the applicant is a partnership, the name and address of each partner,
 - (e) if the applicant is a body corporate, the address of its registered office and the name and address of any person who is a director, manager, company secretary or other similar officer of the body corporate,
 - (f) details of any offence of which the applicant has been convicted contrary to those enactments listed in Schedule 2 within the period of ten years prior to the date of any application pursuant to this Regulation, including details of the court that imposed the conviction together with details of all penalties and sanctions incurred,
 - (g) details of any requirement imposed on the applicant by order of a court pursuant to sections 57 or 58 of the Act,
 - (h) the address of the facility, and
 - (i) site location maps or drawings showing the elevations or drainage provisions of the facility.
- (2) (a) Where the applicant is a body corporate, the information to be provided pursuant to Regulation 6(1)(f) and 6(1)(g) shall include such information in relation to both the applicant and:—

- (i) each director, manager, company secretary or other similar officer of the applicant, and
 - (ii) if applicable, each body corporate in which any director, manager, company secretary or other similar officer of the applicant is or has been at any time during the period of ten years prior to the date of any application pursuant to this Regulation, a director, manager, company secretary or other similar officer.
- (b) Where the applicant is a natural person or a partnership, the information to be provided pursuant to Regulation 6(1)(f) and 6(1)(g) shall include such information in relation to both the applicant and any body corporate, if applicable, in which the applicant or any partner of the applicant, as the case may be, is, or has been, at any time during the period of ten years prior to the date of any application pursuant to this Regulation, a director, manager, company secretary or other similar officer.
- (3) An application pursuant to Regulation 6(1) shall be accompanied by such information or material or both as may be prescribed by the local authority, which may *inter alia* include:—
- (a) a statutory declaration, in the form as set out in Schedule 1, signed by the applicant or, where the applicant is a partnership, each partner, or where the applicant is a body corporate, a director, manager, company secretary or other similar officer of the applicant,
 - (b) where the applicant is a body corporate, a copy of the applicant's certificate of incorporation, certified by the Registrar of Companies under section 370(1)(b) of the Companies Act, 1963 (No. 33 of 1963) or where the applicant is incorporated outside the State, the equivalent certificate from the appropriate authority of that State,
 - (c) where the applicant carries on business under a name other than that of the applicant, a copy of a certificate of registration under the Registration of Business Names Act, 1963 (No. 30 of 1963) certified in accordance with section 16(1)(b) of that Act,
 - (d) the appropriate fee as prescribed by the local authority.
- (4) Any applicant who makes any false or misleading statement in any application under this Regulation or in any document required thereunder or who otherwise provides false or misleading information to the local authority is guilty of an offence.

Determination of an application for a certificate of registration

7. (1) Subject to Regulations 7(2), 7(3) and 8, the local authority shall issue to each applicant a certificate of registration in such form and manner and containing such information as it may prescribe which shall be valid for such period as may be specified by it but which shall not exceed five years and shall enter

particulars of that sewage sludge facility in the register referred to in Regulation 4(1).

(2) The local authority shall not issue a certificate of registration or a renewal of registration, as the case may be, unless it is satisfied that:—

- (a) the applicant has provided all information or material, or both, required for the purposes of an application for registration or for renewal of registration pursuant to these Regulations,
- (b) the applicant is a fit and proper person, and
- (c) the activity concerned, carried on in accordance with such conditions as may be attached to the certificate of registration, will not cause environmental pollution.

(3) For the purposes of this Regulation, an applicant shall be regarded as a fit and proper person if he or she has not been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990, the Air Pollution Act, 1987 or any enactment specified in Schedule 2.

(4) The local authority may, if it considers it proper to do so in any particular case, regard any applicant as a fit and proper person for the purposes of these Regulations, notwithstanding that the applicant concerned is not a person to whom Regulation 7(3) applies.

Conditions necessary to give effect to provisions of Community Act

8. The local authority shall attach to each certificate of registration issued by it pursuant to Regulation 7(1) or Regulation 9(3), as the case may be, such conditions as it deems necessary to give effect to the provisions of the Community Act specified in Regulation 2, and ensure the protection of the environment and shall in any case include the following, as appropriate:

- (1) requirements concerning the types and quantities of sludges to be stored or treated,
- (2) requirements concerning a dedicated area for reception of sludges and facility entry and exit,
- (3) requirements concerning control of odours and the covering of tankers in the sludge reception area,
- (4) requirements concerning the washing of vehicles,
- (5) requirements concerning the integrity of all storage tanks or storage bays and their maintenance and checking by a certified expert at reasonable intervals,
- (6) requirements concerning the maintenance of adequate records including sludge imports and exports, origin and destination locations, waste collection contractors,

- (7) requirements concerning the avoidance of environmental pollution.

Renewal of a certificate of registration

9. (1) A certificate of registration shall be valid from the date of registration to such date as may be specified by the local authority pursuant to Regulation 7(1).

(2) An application for renewal of registration shall be made in writing before the expiration of the period of validity of registration in such form as may be determined by the local authority and shall require from each applicant such information or material, or both, as may be prescribed by the local authority which shall include *inter alia* such information or material, or both, prescribed for the purposes of an application for registration pursuant to Regulation 6.

(3) Subject to Regulations 7(2), 7(3) and 8, the local authority shall issue to each applicant a renewed certificate of registration in such form and manner and containing such information as it may prescribe which shall be valid for such period as may be specified by it but which shall not exceed five years and shall enter or add, as necessary, particulars of that applicant in the register referred to in Regulation 4(1).

(4) Where an operator fails to apply for renewal of registration in accordance with this Regulation, the local authority shall, upon the expiration of the applicable registration period, inform that person, by notice in writing, that the operator shall be removed from the register within one month from the date of such notice unless an application is received for renewal of registration pursuant to this Regulation.

(5) Where an operator fails to apply for renewal of registration in accordance with Regulation 9(4), the local authority shall remove the holder's particulars from the register referred to in Regulation 4.

Review, amendment, revocation or transfer of a certificate of registration

10. (1) A local authority shall have absolute discretion to review or revoke a certificate of registration granted by it at any time where:—

- (a) there is reason to believe that a material change in the nature, extent or focus of the waste-related activity or in the nature or extent of any emission concerned has taken place, or
- (b) an amendment to the waste management plan for the region concerned requires a review of the certificate of registration, and the local authority shall initiate a review of a certificate of registration granted by it.

(2) A registration holder may, at any time, make an application for the review of a certificate of registration in accordance with Regulation 10(4) to a local authority.

(3) Where a local authority proposes to review a certificate of registration under regulation 10(1), it shall give notice in writing to the registration holder which shall indicate that:—

- (a) the local authority intends to review the existing certificate of registration,
- (b) the registration holder is required within 30 working days of the date of issue of the notice to make an application in accordance with Regulation 10(4) for a review of the said certificate of registration to the local authority and that the local authority shall not decide to amend conditions attached to a certificate of registration which it has granted, before the expiry of the said period,
- (c) where the registration holder does not make a submission in accordance with Regulation 10(3)(b), the local authority shall make and issue a decision in relation to the application for a review in accordance with the requirements of these Regulations, and
- (d) the holder of a certificate of registration may be required to defray or contribute towards any costs reasonably incurred by the local authority in respect of the proposed review and such costs shall not exceed the actual costs incurred.

(4) An application for a review of a certificate of registration shall:—

- (a) contain such submissions, plans, documents, other information and particulars as are necessary to support the application for the proposed review of the certificate of registration, and
- (b) include the appropriate fee payable for an application for the review of a certificate of registration as prescribed by the local authority.

(5) The local authority shall make and issue a decision in relation to the application for a review of a certificate of registration in accordance with the requirements of these Regulations.

(6) A certificate of registration may be transferred from the holder to another person in accordance with the following procedures:—

- (a) where the holder of a certificate of registration desires that the certificate be transferred to another person, the registration holder and the proposed transferee shall jointly make an application to the local authority requesting that such a transfer be effected by the local authority,
- (b) an application under Regulation 10(6)(a) shall be made to the local authority and shall be accompanied by the fee as prescribed by the local authority,

- (c) the local authority may require the provision of such further information by the certificate of registration holder or the proposed transferee as it considers appropriate for the purposes of dealing with an application made by them under this sub-paragraph,
- (d) if, on consideration of an application and any relevant information provided in respect thereof, the local authority is satisfied that the proposed transferee would, if he or she were an applicant for the certificate of registration, be regarded by it as being a fit and proper person to be granted under this sub-paragraph a like certificate of registration to the certificate of registration concerned, it shall effect a transfer of the certificate of registration to the proposed transferee.

(7) A local authority may revoke a certificate of registration, if it appears to it that:—

- (a) the registration holder, or other relevant person, is not, in its reasonable opinion, a fit and proper person to hold a waste facility permit,
- (b) the activity is being carried out in contravention of the terms of the certificate of registration,
- (c) the activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007⁴ as amended by the Waste Management (Collection Permit) (Amendment) Regulations 2008⁵, the Waste Management (Movement of Hazardous Waste) Regulations, 1998⁶, or the Waste Management (Shipment of Waste) Regulations 2007⁷,
- (d) the registration holder, or other relevant person, is likely, by a continuation of his or her activities, to cause environmental pollution, or
- (e) the registration holder, or other relevant person, is participating in, facilitating, or otherwise contributing towards the onward movement of waste to unauthorised facilities or unauthorised collectors.

(8) In determining whether a person shall be a relevant person for the purpose of the revocation of a certificate of registration, a local authority shall consider the extent to which the person is, or is likely to be, in a position to direct or control the carrying on of the activity to which the relevant certificate of registration relates.

(9) A local authority shall, as soon as may be after making a decision under Regulation 10(7) to revoke a certificate of registration it has granted, give notice, where appropriate, in writing of the decision and the reasons for the decision to the registration holder.

⁴S.I. No. 820 of 2007

⁵S.I. No. 87 of 2008

⁶S.I. No. 147 of 1998

⁷S.I. No. 419 of 2007

(10) Where an application for a certificate of registration has been refused or a certificate of registration revoked by a local authority, the former holder of a certificate of registration shall make an application for the surrender of the certificate of registration in a manner prescribed by the local authority.

(11) In the case of an activity involving the biological treatment of animal by-products and where a certificate of registration has been granted, refused, revoked or surrendered, the local authority shall notify the Minister for Agriculture, Fisheries and Food of such a decision.

(12) The former holder of a certificate of registration which has been refused or revoked may appeal to a court of competent jurisdiction against the refusal or revocation of the certificate of registration and, on hearing the appeal, the court may confirm or annul the revocation.

Duties of registered operators of sewage sludge facilities

11. (1) Each operator of a sewage sludge facility which has been registered by the local authority pursuant to these Regulations shall:—

- (a) compile and maintain records of the types and quantities of waste dealt with in the course of business, the origin and final destination of such waste, the treatment, recovery or disposal activities to which the waste is subject and, the person by whom such waste is collected,
- (b) notify the local authority when convicted of an offence contrary to the provisions of those enactments specified in Schedule 2,
- (c) make available to the local authority, within ten working days, records as required under paragraph (a),
- (d) furnish such information in relation to the collection and movement of waste in such form and at such frequency as may be specified by the local authority.

(2) The records referred to in Regulation 11(1) shall be retained for a period of not less than five years.

Inspections of registered sewage sludge facilities

12. (1) The local authority shall carry out appropriate periodic inspections of registered sewage sludge facilities.

(2) The Agency shall carry out appropriate periodic inspections of local authority operated registered sewage sludge facilities.

Duty to only use registered sewage sludge facilities

13. Any person who uses a sewage sludge facility shall only use a facility which has a certificate of registration.

Offences

14. (1) Any person who contravenes any provision of these Regulations is guilty of an offence.

(2) Any person who fails to comply with a requirement, obligation or condition imposed by the local authority in a certificate of registration issued under these Regulations is guilty of an offence.

Legal proceedings

15. Copies of all certificates and purporting to be certified by an officer of the local authority to be true copies without proof of signature of the person purporting so to certify shall be received in evidence in any legal proceedings, and be admissible in evidence and shall, until the contrary is proved, be deemed to be a true copy of the entry and to be evidence of the terms of the entry and in particular that information contained in those documents shall be admissible in any criminal proceedings as evidence of any fact therein of which direct oral evidence would be admissible.

Prosecutions and penalties

16. (1) A prosecution for a summary offence under these Regulations may be taken by the local authority.

(2) A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding €3,000, or imprisonment for a term not exceeding 3 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000, or imprisonment for a term not exceeding 3 years, or both.

SCHEDULE 1

STATUTORY DECLARATION

I declare that the information given in the application by _____ for the purpose of obtaining a certificate of registration is correct, and that no information, which is required to be included in the said application, has been omitted.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations, Act, 1938.

I authorise _____ to make any enquiries from official sources as it may consider necessary for the purpose of determining this application and, pursuant to section 8 of the Data Protection Act, 1988, I consent to the disclosure of details of convictions for relevant offences specified under Schedule 2 of the Waste Management (Registration of Sewage Sludge Facilities) Regulations 2010.

Signature:

Name (block capitals)

Declared before me at _____ this ____ day of _____, 20____. #

To be completed by a Solicitor/Commissioner of Oaths/Notary Public/Peace Commissioner/Garda Síochána.

Signature of Witness

Occupation

Date _____

WARNING Any person who gives false or misleading information for the purpose of obtaining a certificate of registration renders themselves liable to severe penalties.

SCHEDULE 2

OFFENCES TO BE DISCLOSED

The following offences shall be disclosed in the application by an owner or operator of a sewage sludge facility for a certificate of registration:

- (1) a contravention of the Waste Management (Movement of Hazardous Waste) Regulations, 1998 (S.I. No. 147 of 1998), subject to any amendment that may be made to those Regulations from time to time, but if those Regulations should be revoked, shall be subject to such Regulations corresponding to those Regulations as may be for the time being in force,
- (2) an offence under sections 14(6), 18(2), 18(8), 32(6), 34(1), 36(3), 39(9), 53C(4), 53F, 53H(4), 53I(6), 53J(6), 53K(5), 53L(5) or 53M(5) of the Act, or as appropriate, any appropriate section or Part, concerning producer responsibility obligations, that may be inserted into the Act from time to time,
- (3) an offence under articles 18 and 26 of the Waste Management (End of Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006), subject to any amendment that may be made to those Regulations from time to time, but if those Regulations should be revoked, shall be subject to such Regulations corresponding to those Regulations as may be for the time being in force, or as appropriate,
- (4) an offence under article 9 of the European Communities (Batteries and Accumulators) Regulations, 1994 (S.I. No. 262 of 1994) those Regulations, from time to time, but if those Regulations should be revoked, shall be subject to such Regulations corresponding to those Regulations as may be for the time being in force,
- (5) an offence under Regulation 9 of the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007),
- (6) an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990, the Air Pollution Act, 1987.



Given under my Official Seal this 28th day of January, 2010.

JOHN GORMLEY,
Minister for the Environment, Heritage and Local
Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations provide for the registration and regulation of sewage sludge facilities in order to meet the requirements of the Waste Framework Directive. Facilities already regulated under other environmental legislation—such as licenced facilities under the Waste Management Acts are excluded.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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