ARRANGEMENT OF SECTIONS

PART 1
Preliminary and General

Section
1. Short title and collective citations.
2. Commencement.
3. Repeals and revocations.
4. Definitions.

PART 2
Amendment of Act of 1992

Chapter 1
Amendment of sections 3, 4, 5, 6, 7, 9 and 14 of Act of 1992

[No. 1 of 2003]
Chapter 2
Integrated Pollution Prevention and Control under Act of 1992

Section

Chapter 3
Groundwater Protection

Chapter 4
Amendment of section 111 of, and First Schedule to, Act of 1992

PART 3
Amendment of Act of 1996
17. Amendment of section 5 of Act of 1996.
22. Amendment of section 33 of Act of 1996.
27. Amendment of section 41 of Act of 1996.
29. Power to revoke or suspend waste licence.
30. Operator of landfill facility to impose charge for disposals.
Section
32. Extension to Agency of powers under section 56 of Act of 1996 and clarification of that section.
33. Amendment of section 57 of Act of 1996.
34. Amendment of section 58 of Act of 1996.
35. Charges for waste services.

PART 4
Amendment of Act of 1997

PART 5
Miscellaneous
41. Saving for regulations, orders and bye-laws.
42. Amendment of section 5 of Air Pollution Act 1987.
43. Amendment of section 34 of Planning and Development Act 2000.

SCHEDULE 1
New First Schedule to Act of 1992

SCHEDULE 2
Repeals and Revocations

SCHEDULE 3
New Third Schedule to Act of 1996

SCHEDULE 4
New Fourth Schedule to Act of 1996
Acts Referred to

Air Pollution Act 1987 1987, No. 6
Companies Acts 1963 to 2001
Electoral Act 1992 1992, No. 23
Environmental Protection Agency Act 1992 1992, No. 7
European Communities Act 1972 1972, No. 27
European Parliament Elections Act 1997 1997, No. 2
Fisheries (Consolidation) Act 1959 1959, No. 14
Harbours Act 1946 1946, No. 9
Health (Eastern Regional Health Authority) Act 1999 1999, No. 13
Litter Pollution Act 1997 1997, No. 12
Litter Pollution Acts 1997 and 2001
Local Government (Sanitary Services) Acts 1878 to 2001
Local Government (Water Pollution) Act 1977 1977, No. 1
Local Government (Water Pollution) (Amendment) Act 1990 1990, No. 21
Minerals Development Acts 1940 to 1999
Planning and Development Act 2000 2000, No. 30
Presidential Elections Act 1993 1993, No. 28
Údarás na Gaeltachta Act 1979 1979, No. 5
Waste Management Act 1996 1996, No. 10
Waste Management Acts 1996 and 2001
Waste Management (Amendment) Act 2001 2001, No. 36

European Communities Regulations Referred to

European Communities (Environmental Impact Assessment) (Amendment) Regulations 1994 S.I. No. 84 of 1994
AN BILLE UM CHAOMHNU´ AN CHOMHSHAOL 2003
PROTECTION OF THE ENVIRONMENT BILL 2003

BILL
entitled


BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1
Preliminary and General

1.—(1) This Act may be cited as the Protection of the Environment Act 2003.


2.—This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

3.—(1) Each enactment mentioned in column (2) of Part 1 of Schedule 2 to this Act is repealed to the extent specified in column (3) of that Part.

4.—(1) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
Definitions.

4.—In this Act—


“Act of 1996” means the Waste Management Act 1996;

“Act of 1997” means the Litter Pollution Act 1997;

“Minister” means the Minister for the Environment and Local Government.

PART 2

Amendment of Act of 1992

Chapter 1

Amendment of sections 3, 4, 5, 6, 7, 9 and 14 of Act of 1992

5.—The following sections are substituted for section 3 of the Act of 1992:

“Interpretation. 3.—(1) In this Act, except where the context otherwise requires—

‘activity’ means any process, development or operation specified in the First Schedule and carried out in an installation;

‘the Act of 1996’ means the Waste Management Act 1996;

‘the Act of 2000’ means the Planning and Development Act 2000;

‘the Agency’ shall be construed in accordance with section 19(1);

‘atmosphere’ means the gaseous envelope surrounding the earth, and includes air;

‘authorised person’ means a person who is appointed in writing by the Minister, a local authority, the Agency or such other person as may be prescribed to be an authorised person for the purposes of this Act or any Part or section thereof;

‘development’ has the meaning assigned to it by section 3 of the Act of 2000;

‘the Directive’ shall be construed in accordance with section 3A (1);

‘disposal’, in relation to waste, has the meaning assigned to it by the Act of 1996;
'emission' means, in relation to an activity referred to in Part IV or IVA, any direct or indirect release of substances, heat or noise from individual or diffuse sources in the activity into the atmosphere, water or land, and includes—

(a) an emission into the atmosphere of a pollutant within the meaning of the Air Pollution Act 1987,

(b) the release of a greenhouse gas or a precursor of a greenhouse gas into the atmosphere,

(c) a discharge of polluting matter, sewage effluent or trade effluent within the meaning of the Local Government (Water Pollution) Act 1977, to waters or sewers within the meaning of that Act, or

(d) waste,


‘emission limit value’ means the mass, expressed in terms of a specific parameter, concentration or level of an emission, or both a specific concentration and level of an emission, which may not be exceeded during one or more periods of time;

‘employee of the Agency’ does not include the Director General or other Director of the Agency;

‘enactment’ includes any instrument made under an enactment;

‘environmental impact statement’ has the meaning assigned to it by the Act of 2000;

‘environmental protection’, ‘environmental pollution’, ‘environmental medium’ and ‘environmental quality standard’ have the meanings respectively assigned to them by section 4;

‘established activity’ means—

(a) an activity which on 29 October 1999, or such other date as may be prescribed in relation to the activity, was being carried on and did not involve or have an association with unauthorised development within the meaning of the Act of 2000, or

(b) an activity—

(i) in respect of which permission under section 34 of the Act of 2000 had been

granted, or an application for such permission had been made, before 30 October 1999, or such other date as may be prescribed in relation to the activity, and

(ii) which on 29 October 2000, or such other date as may be prescribed in relation to the activity—

(I) was being carried on, and

(II) did not involve or have an association with unauthorised development within the meaning of the Act of 2000;

‘functions’ includes powers and duties;

‘greenhouse gas’ means—

(a) carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, any hydrofluorocarbon or any perfluorocarbon, and

(b) such other gases as may be prescribed,

in so far as the emission of any such gas contributes to global climate change;

‘installation’ means a stationary technical unit or plant where the activity concerned referred to in the First Schedule is or will be carried on, and shall be deemed to include any directly associated activity, whether licensable under this Part or not, which has a technical connection with the first-mentioned activity and is carried out on the site of that activity;

‘land’ includes soil;

‘local authority’ means—

(a) in the case of a city, the city council, and

(b) in the case of a county, the county council,

and references to the functional area of a local authority shall be construed accordingly;

‘the Minister’ means the Minister for the Environment and Local Government;

‘monitoring’ includes the inspection, measurement, sampling or analysis for the purposes of this Act of any emission, or of any environmental medium in any locality, whether periodically or continuously;

‘noise’ includes vibration;

‘occupier’, in relation to any installation or premises, includes the owner, a lessee, any person entitled to occupy the installation or premises and any other person having, for the time being, control of the installation or premises;
'person in charge' includes an occupier of an installation or premises or a manager, supervisor or operator of an activity;

'planning authority' has the meaning assigned to it by the Act of 2000;

'plant' includes any equipment, appliance, apparatus, machinery, works, building or other structure or any land or any part of any land which is used for the purposes of, or incidental to, any activity specified in the First Schedule;

'premises' includes any messuage, building, vessel, structure or land (whether or not there are structures on the land or whether or not the land is covered with water) or any hereditament of any tenure, together with any out-buildings and curtilage;

'prescribed' means prescribed by regulations by the Minister under this Act;

'previous Part IV' shall be construed in accordance with section 82(1);

'public authority' means—

(a) a Minister of the Government,

(b) the Commissioners of Public Works in Ireland,

(c) a local authority for the purposes of the Local Government Act 2001,

(d) a harbour authority within the meaning of the Harbours Act 1946,

(e) (i) a health board,

(ii) the Eastern Regional Health Authority, or

(iii) an Area Health Board established under the Health (Eastern Regional Health Authority) Act 1999,

(f) a board or other body (but not including a company under the Companies Acts 1963 to 2001) established by or under statute,

(g) a company under the Companies Acts 1963 to 2001, in which all the shares are held—

(i) by or on behalf of a Minister of the Government,

(ii) by directors appointed by a Minister of the Government, or

(iii) by a board or other body referred to in paragraph (f) or by a company to which subparagraph (i) or (ii) applies,

(h) such other body as may be prescribed for the purposes of any provisions of this Act;
‘public place’ includes any place to which the public have access, whether by right or by permission, or whether subject to, or free of charge;

‘recovery’, in relation to waste, has the meaning assigned to it by the Act of 1996;

‘sanitary authority’ means a sanitary authority for the purposes of the Local Government (Sanitary Services) Acts 1878 to 2001;

‘soil’ means the top layer of the land surface of the earth that is composed of disintegrated rock particles, humus, water and air;

‘statutory undertaker’ has the meaning assigned to it by the Act of 2000;

‘vessel’ means a waterborne craft of any type, whether self propelled or not, and includes an air cushion craft and any structure in or on water;

‘waste management plan’ means a waste management plan or a hazardous waste management plan within the meaning of the Act of 1996 that is for the time being in force;

‘waters’ has the meaning assigned to it by the Local Government (Water Pollution) Act 1977;

‘works’, in relation to sections 106 and 107, has the meaning assigned to it by the Act of 2000.

(2) In this Act a reference to—

(a) the date on which a licence or revised licence is granted is a reference to the date on which the licence or revised licence is sealed with the seal of the Agency, and

(b) the date on which a decision by the Agency to refuse a licence or a revised licence is made is a reference to the date on which that decision, as reduced to writing, is so sealed.

(3) In this Act a reference to a section, Part or Schedule, is a reference to a section or Part of, or a Schedule to, this Act, unless it is indicated that reference to some other enactment is intended.

(4) In this Act a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(5) In this Act a reference to any enactment shall be construed as a reference to that enactment as amended or adapted by or under this or any subsequent enactment.

(6) The activities to which this Act applies include activities operated by or in the charge of the State.
Community act

(1) The purposes for which the amendments given effect to of this Act by the Protection of the Environment Act 2003, are made include the purpose of giving effect to Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control1 (in this Act referred to as ‘the Directive’).

(2) The Agency shall be the competent authority for the purposes of the Directive.

(3) As competent authority for the purposes of the Directive, the Agency shall, amongst other things—

(a) keep itself informed of developments in best available techniques,

(b) maintain such data and information, provide for the supply of data to the Commission of the European Communities and undertake such reporting as may be necessary for the proper implementation of relevant Community acts (including compliance with the requirements of Articles 15 and 16 of the Directive),

(c) when requested to do so by the Minister, participate in the Committee to assist the Commission of the European Communities on the basis provided for in Article 19 of the Directive.

Power to amend
First Schedule in certain circumstances.

3B.—The Minister may by regulations amend the First Schedule if either or both of the following conditions is or are satisfied—

(a) as a result of an act adopted by an institution of the European Communities, the continued operation of that Schedule and section 82 would, unless such amendment were to be made, not be in conformity with that act,

(b) the amendment proposed to be made does not, in the opinion of the Minister, involve any deviation from the principles or policies of that Schedule and section 82.’’.

6.—The following section is substituted for section 4 of the Act of 1992:

4.—(1) In this Act ‘environmental protection’ includes—

(a) the prevention, limitation, elimination, abatement or reduction of environmental pollution, and

(b) the preservation of the quality of the environment as a whole.

(2) In this Act ‘environmental pollution’ means the direct or indirect introduction to an environmental medium, as a result of human activity, of substances, heat or noise which may be harmful to human health or the quality of the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment, and includes—

(a) ‘air pollution’ for the purposes of the Air Pollution Act 1987,

(b) the condition of waters after the entry of polluting matter within the meaning of the Local Government (Water Pollution) Act 1977,

(c) in relation to waste, the holding, transport, recovery or disposal of waste in a manner which would, to a significant extent, endanger human health or harm the environment and, in particular—

(i) create a risk to the atmosphere, waters, land, plants or animals,

(ii) create a nuisance through noise, odours or litter, or

(iii) adversely affect the countryside or places of special interest,

(d) noise which is a nuisance, or would endanger human health or damage property or harm the environment.

(3) In this Act ‘environmental medium’ includes the atmosphere, waters and land.

(4) In this Act ‘environmental quality standard’ means the set of requirements which must be fulfilled at a given time by a given environment or environmental medium or any part thereof, as specified in any enactment or enactments, or in any act or acts adopted by an institution of the European Communities.”.

7.—The following section is substituted for section 5 of the Act of 1992:

5.—(1) A reference in this Act to best available techniques shall be construed as a reference to the most effective and advanced stage in the development of an activity and its methods of operation, which indicate the practical suitability of particular techniques for providing, in principle, the basis for emission limit values designed to prevent or eliminate or, where that is not practicable, generally to reduce an emission and its impact on the environment as a whole.
(2) In subsection (1)—

(a) ‘best’, in relation to techniques, means the most effective in achieving a high general level of protection of the environment as a whole;

(b) ‘available techniques’ means those techniques developed on a scale which allows implementation in the relevant class of activity specified in the First Schedule, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced within the State, as long as they are reasonably accessible to the person carrying on the activity;

(c) ‘techniques’ includes both the technology used and the way in which the installation is designed, built, managed, maintained, operated and decommissioned.

(3) (a) For the purposes of subsection (1), the Agency—

(i) may from time to time as occasion requires, and

(ii) shall in accordance with any regulations made by the Minister,

specify best available techniques to provide, in principle, the basis for emission limit values for an activity or activities of a particular class or description, and regard shall be had in the administration of this Act to any such specifications.

(b) In specifying best available techniques in accordance with paragraph (a) or otherwise determining best available techniques for the purposes of this Part, the Agency shall, having regard to the likely costs and advantages of measures and to the principles of precaution and prevention, consider in particular—

(i) the use of low-waste technology,

(ii) the use of less hazardous substances,

(iii) the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate,

(iv) comparable processes, facilities or methods of operation, which have been tried with success on an industrial scale,
(v) technological advances and changes in scientific knowledge and understanding,

(vi) the nature, effects and volume of the emissions concerned,

(vii) the commissioning dates for new or existing activities,

(viii) the length of time needed to introduce the best available techniques,

(ix) the consumption and nature of raw materials (including water) used in the process and their energy efficiency,

(x) the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it,

(xi) the need to prevent accidents and to minimise the consequences for the environment, and

(xii) the information published by the Commission of the European Communities pursuant to any exchange of information between Member States and the industries concerned on best available techniques, associated monitoring, and developments in them, or by international organisations,

and such other matters as may be prescribed.

(4) Whenever the Agency prepares a specification under subsection (3), it shall, as soon as may be, cause—

(a) a copy of such specification to be sent to the Minister, each local authority, An Bord Pleanála and such other bodies, if any, as may be prescribed,

(b) notice of the preparation of the specification to be published in Iris Oifigiúil, and

(c) a copy of the specification to be made available to every person who makes application for such a copy on payment of such fee (if any) as the Agency shall fix not exceeding the reasonable cost of making such a copy.”.
8.—Section 6 of the Act of 1992 is amended—

(a) by inserting in subsection (3) after “Every regulation made under this Act”, “(other than regulations made under section 99)”, and

(b) by inserting the following subsection after subsection (3):

“(4) Where it is proposed to make regulations under section 99, a draft of the regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.”

9.—Section 7 of the Act of 1992 is amended in subsection (2) by substituting “In addition to and not in substitution for the power conferred by section 3B, the Minister may” for “The Minister may”.

10.—Section 9 of the Act of 1992 is amended—

(a) by substituting in subsection (1)(a) “€3,000” for “£1,000”,

(b) by substituting in subsection (1)(b) “€13,000,000” for “£10,000,000”, and

(c) by substituting in subsection (3) “€600” for “£200”, and “€130,000” for “£100,000”.

11.—Section 14 (1) of the Act of 1992 is amended—

(a) by deleting “or” after paragraph (d),

(b) by substituting in paragraph (e) “development, or” for “development.”, and

(c) by inserting the following paragraph after paragraph (e):

“(f) by such other means as may be prescribed.”

Chapter 2

Integrated Pollution Prevention and Control under Act of 1992

12.—The following Part is substituted for Part IV of the Act of 1992:

“PART IV

Integrated Pollution Prevention and Control

Licences.

82.—(1) In this section ‘previous Part IV’ means this Part as it had effect before the amendment of it by section 12 of the Protection of the Environment Act 2003.

(2) A person shall not carry on an activity, other than an established activity or an activity to which subsection (3) applies, unless a licence or revised
(3) (a) A person shall not continue to carry on an activity (other than an established activity) the carrying on of which—

(i) commenced on or after 30 October 1999 but before the commencement of section 12 of the Protection of the Environment Act 2003, and

(ii) was not licensable under the previous Part IV but is licensable under this Part,

unless, within the period of 6 months from the commencement of that section, a licence under this Part is in force in relation to it.

(b) Paragraph (a) is without prejudice to paragraph (c).

(c) The carrying on of an activity to which paragraph (a) relates shall, in the period before a licence in relation to the activity is granted or refused, be deemed not to have contravened the provisions of this Part provided that, within the period of 6 months referred to in paragraph (a), an application has been made for a licence in respect of that activity and the requirements of regulations made under section 89 in relation to the application for the licence have been complied with by the applicant therefor.

(4) (a) The Minister may, by order, provide that an established activity of any class specified in the order shall not be carried on, on or after such date as may be specified in the order, unless a licence or revised licence under this Part is in force in relation to the activity.

(b) Paragraph (a) is in addition to the circumstances specified in section 98 in which a licence is required under that section in respect of an established activity.

(5) In the period (following the specification of a date by an order under subsection (4)) before a licence in relation to the established activity concerned is granted or refused, the requirements of any other legislation relevant to the activity shall continue to apply.

(6) Notwithstanding the specification of a date by an order under subsection (4), the carrying on of an established activity to which the order relates shall, in the period before a licence in relation to the activity
(7) Every licence and revised licence granted under the previous Part IV and in force immediately before the commencement of section 12 of the Protection of the Environment Act 2003 shall, without prejudice to subsections (10) and (11), section 92 and the other provisions of this Act, continue in force; for the avoidance of doubt, the provisions of this Part, and not of the previous Part IV, shall apply to such a licence.

(8) Every application made under the previous Part IV for a licence, or the review of a licence or a revised licence, and every review of a licence or a revised licence commenced by the Agency of its own volition under the said Part IV, and not finally dealt with and determined or completed before the commencement of section 12 of the Protection of the Environment Act 2003, shall continue to be dealt with by the Agency, and be determined or completed by it, as if the application were an application for a licence, or the review of a licence or a revised licence under this Part or, as the case may be, the review were a review commenced by the Agency of its own volition under this Part.

(9) Every order made under subsection (2) (being subsection (2) of this section as it had effect in the previous Part IV) and in force immediately before the commencement of section 12 of the Protection of the Environment Act 2003, shall continue in force as if it were an order made under subsection (4).

(10) The Agency shall, not later than 30 September 2007, have done the following (which, by virtue of this subsection, it has power to do)—

(a) examined the terms of every licence and revised licence to which subsection (7) applies and for the time being in force and determined whether, having regard to the provisions of the Directive and subsection (11), the licence or revised licence requires to be reviewed under this Part or be the subject of the exercise of the powers conferred by subsection (11), and

(b) if—

(i) it has determined that the licence or revised licence requires to be so reviewed, commenced such a review and exercised the powers conferred on it by this Part consequent on such a review, or
(ii) it has determined that the licence or revised licence does not require to be so reviewed and subsection (11) does not apply and, accordingly, that no further action is required, declared in writing that it is of that opinion.

(11) If the bringing into conformity with the Directive of a licence or revised licence to which subsection (7) applies can, in the opinion of the Agency, be achieved by amending one or more of the conditions of the licence (and the making of those amendments will not significantly alter the character of the licence) then, unless the Agency considers it ought nevertheless, in the public interest or because of other special considerations, carry out the review and exercise the powers referred to in subsection (10)(b)(i) in relation to the licence, the Agency shall have made, not later than 30 September 2007, those amendments of the conditions of the licence or revised licence (which, by virtue of this subsection, it has power to do).

Determination of applications for licences.

83.—(1) Where an application is made to the Agency in the prescribed manner for a licence under this Part it may, subject to section 99A and to compliance with any regulations under section 89, grant the licence subject to such conditions as it considers appropriate or refuse the application.

(2) Unless it considers that it is unnecessary to do so, the Agency shall carry out or cause to be carried out such investigations as it thinks appropriate or as may be prescribed—

(a) prior to, and for the purposes of determining, any application made to it under this Part,

(b) as part of the review of a licence or revised licence commenced by the Agency under section 90, or

(c) for the purposes of section 82(10) or (11),

and may require the applicant or the licensee, as the case may be, to defray or contribute towards the cost of any such investigation.

(3) In considering an application for a licence or a revised licence, or the review of a licence or a revised licence under this Part, the Agency shall have regard to—

(a) any relevant air quality management plan under section 46 of the Air Pollution Act 1987, or water quality management plan under section 15 of the Local Government (Water Pollution) Act 1977, or waste management plan,

(b) any relevant noise regulations under section 106,
(c) any special control area order under section 39 of the Air Pollution Act 1987, in operation in relation to the area concerned,

(d) the policies and objectives of the Minister or the Government in relation to the prevention, elimination, limitation, abatement or reduction of emissions for the time being extant,

(e) (i) the environmental impact statement (if any) submitted with the application,

(ii) any submissions or observations made to the Agency in relation to the environmental impact statement,

(iii) any further information or particulars submitted in relation to the environmental impact statement in compliance with a notice given under regulations under section 89, and

(iv) where appropriate, the comments of other Member States of the European Communities in relation to the effects on the environment of the proposed activity,

insofar as the statement, submissions, comments, observations, information or particulars relate to the effects on the environment of emissions from the activity,

and

(f) such other matters related to the prevention, elimination, limitation, abatement or reduction of emissions as it considers necessary.

(4) (a) In granting a licence or revised licence, the Agency shall, subject to section 86(3), specify in the licence or the revised licence emission limit values for environmental pollutants likely to be emitted from the activity in significant quantities, having regard to their nature and their potential to transfer from one environmental medium to another.

(b) The Minister may make regulations for the purposes of this subsection.

(c) Without prejudice to the generality of paragraph (b), regulations under this subsection may specify the principal polluting substances to which the Agency is to have regard in fulfilling its duty under paragraph (a).

(5) The Agency shall not grant a licence or revised licence for an activity—
(a) unless it is satisfied that—

(i) any emissions from the activity will not result in the contravention of any relevant air quality standard specified under section 50 of the Air Pollution Act 1987, and will comply with any relevant emission limit value specified under section 51 of the Air Pollution Act 1987,

(ii) any emissions from the activity will comply with, or will not result in the contravention of, any relevant quality standard for waters, trade effluents and sewage effluents and standards in relation to treatment of such effluents prescribed under section 26 of the Local Government (Water Pollution) Act 1977,

(iii) any emissions from the activity or any premises, plant, methods, processes, operating procedures or other factors which affect such emissions will comply with, or will not result in the contravention of, any relevant standard including any standard for an environmental medium prescribed under regulations made under the European Communities Act 1972, or under any other enactment,

(iv) any noise from the activity will comply with, or will not result in the contravention of, any regulations under section 106,

(v) any emissions from the activity will not cause significant environmental pollution,

(vi) the best available techniques will be used to prevent or eliminate or, where that is not practicable, generally to reduce an emission from the activity,

(vii) having regard to Part III of the Act of 1996, production of waste in the carrying on of the activity will be prevented or minimised or, where waste is produced, it will be recovered or, where that is not technically or economically possible, disposed of in a manner which will prevent or minimise any impact on the environment,

(viii) energy will be used efficiently in the carrying on of the activity,
necessary measures will be taken to prevent accidents in the carrying on of the activity and, where an accident occurs, to limit its consequences for the environment,

necessary measures will be taken upon the permanent cessation of the activity (including such a cessation resulting from the abandonment of the activity) to avoid any risk of environmental pollution and return the site of the activity to a satisfactory state, and

the applicant or licensee or transferee, as the case may be, is a fit and proper person to hold a licence,

and, where appropriate, the Agency shall attach conditions relating to the matters specified in the foregoing subparagraphs to the licence or revised licence,

and

where an environmental quality standard requires stricter conditions to be attached to the licence or revised licence than would otherwise be determined by reference to best available techniques either—

(i) without attaching to the licence or revised licence conditions of an appropriate kind for the purpose of that standard, or

(ii) where—

(I) the proposed licensee or the licensee proposes, for the purpose of that standard, to take steps that are different from those that would be required by the imposition of conditions under subparagraph (i), and

(II) the Agency is satisfied that those steps, or those steps with such modifications of them as it considers appropriate, are appropriate for the purpose of that standard,

without attaching conditions to the licence or revised licence requiring those steps, or those steps as so modified, to be taken.

The Agency may, before it does any of the following things, namely—

(a) decides whether to—
(i) grant a licence or a revised licence, or

(ii) effect a transfer of a licence or a revised licence,

or

(b) completes a review of a licence or a revised licence,

require the applicant for the licence, the licensee in the case of a review (whether commenced by the Agency of its own volition or not), or the proposed transferee, as the case may be, to—

(i) furnish to it such particulars in respect of such matters affecting his ability to meet the financial commitments or liabilities that the Agency reasonably considers will be entered into or incurred by him in carrying on the activity to which the licence or revised licence relates or will relate, as the case may be, in accordance with the terms of the licence or in consequence of ceasing to carry on that activity as it may specify, and

(ii) make, and furnish evidence of having so made, such financial provision as it may specify (which may include the entering into a bond or other form of security) as will, in the opinion of the Agency, be adequate to discharge the said financial commitments or liabilities.

(7) A person who, pursuant to a requirement made of him under subsection (6), furnishes to the Agency any particulars or evidence which he knows to be false or misleading in a material respect shall be guilty of an offence.

(8) The Minister may make regulations for the purpose of subsection (6).

(9) Without prejudice to the generality of subsection (8), regulations under that subsection may specify by reference to the type of activity to which the licence or revised licence concerned relates or will relate—

(a) the nature of the financial provision that the Agency may require a person to make under subsection (6)(ii),

(b) the matters to be had regard to by the Agency in determining the amount of financial provision that it may require a person to make under subsection (6)(ii).

(10) A person shall not be entitled solely by reason of a licence or revised licence under this Part to make, cause or permit an emission to any environmental medium.
84.—(1) Where a licence or revised licence is required under this Part in respect of an activity, a licence under—

(a) Part III of the Air Pollution Act 1987,

(b) section 4 or 16 of the Local Government (Water Pollution) Act 1977, or

(c) section 171 of the Fisheries (Consolidation) Act 1959,

shall not be granted in relation to such activity.

(2) Where a licence or revised licence has been granted under this Part in respect of an activity, a licence under—

(a) Part III of the Air Pollution Act 1987,

(b) section 4 or 16 of the Local Government (Water Pollution) Act 1977, or

(c) section 171 of the Fisheries (Consolidation) Act 1959,

shall cease to have effect in relation to such activity.

(3) It shall be a good defence—

(a) to a prosecution for an offence under any enactment other than this Part, or

(b) to proceedings under—

(i) section 10 or 11 of the Local Government (Water Pollution) Act 1977,

(ii) section 20 of the Local Government (Water Pollution) (Amendment) Act 1990,

(iii) section 28, 28A or 28B of the Air Pollution Act 1987,

(iv) section 57 or 58 of the Act of 1996, or

(v) section 99H,

to prove that the act complained of is authorised by a licence or revised licence granted under this Part.

(4) For the purpose of this Part, a person shall be regarded as a fit and proper person if—

(a) neither that person nor any other relevant person has been convicted of an offence under this Act or the Act of 1996 prescribed for the purposes of this subsection,
(b) in the opinion of the Agency, that person or, as appropriate, any person or persons employed by him to direct or control the carrying on of the activity to which the licence or revised licence relates or will relate has or have the requisite technical knowledge or qualifications to carry on that activity in accordance with the licence or revised licence and the other requirements of this Act, and

(c) in the opinion of the Agency, that person is likely to be in a position to meet any financial commitments or liabilities that the Agency reasonably considers have been, or will be entered into or incurred by him in carrying on the activity to which the licence or revised licence relates or will relate, as the case may be, in accordance with the terms thereof or in consequence of ceasing to carry on that activity.

(5) The Agency may, if it considers it proper to do so in any particular case, regard a person as a fit and proper person for the purposes of this Part notwithstanding that that person or any other relevant person is not a person to whom subsection (4)(a) applies.

(6) The references in subsections (4) and (5) to a relevant person are references to a person whom the Agency determines to be relevant for the purposes of considering the application or review concerned having had regard to any criteria that the Minister by regulations provides it is to have regard to in determining such a matter.

Transboundary environmental impacts.

85.—(1) Where—

(a) an activity in respect of which an application for a licence or the review of a licence or a revised licence has been made to the Agency, or

(b) an activity the subject of a licence or revised licence a review of which under section 90 the Agency proposes to conduct,

is likely to have a significant adverse effect on the environment in another Member State of the European Communities, the Minister shall inform that other state of the application or the review.

(2) Where another Member State of the European Communities requests the State to provide to it information in relation to an activity licensable under this Part which, in the opinion of the first-mentioned state, is likely to have a significant adverse effect on that state’s environment, the Minister shall request the Agency to provide that state with information in relation to the activity.
(3) Where it comes to the notice of the Agency that an activity or a proposed activity in another Member State of the European Communities is likely to have a significant adverse effect on the environment in the State, the Agency shall inform the Minister of the matter and, when requested to do so by him, assess the matter and advise the Minister of the effect on the environment in the State of that activity.

(4) The Minister may by regulations—

(a) provide for specified procedures to be followed, additional to those specified by or under any other provision of this Act, with respect to—

(i) the determination of an application for a licence or for the review of a licence or a revised licence, and

(ii) the review by the Agency, of its own volition, of a licence or a revised licence,

where such licence relates to an activity emissions from which are likely to have a significant adverse effect on the environment in another Member State of the European Communities,

(b) provide for specified procedures to be followed by persons in the State in circumstances where it comes to the notice of such persons that emissions from an activity in another Member State of the European Communities, being an activity the operation of which requires a permit under the Directive, are likely to have a significant adverse effect on the environment in the State.

(5) Without prejudice to the generality of subsection (4), regulations under that subsection may make provision for the following—

(a) in respect of an activity to which subsection (1) or (2) applies—

(i) requiring the Agency to notify the Minister that the activity is being carried on or is proposed to be carried on;

(ii) requiring the Agency to submit information to the Minister regarding the activity;

(iii) requiring the Agency to provide information to the other state concerned, its competent authority for the purposes of the Directive (in this paragraph referred to as the ‘competent authority of that state’) or other persons in that state;
(iv) requiring the Agency to consult with the competent authority of that state;

(v) requiring the Agency to take into consideration any comments from the state concerned, the competent authority of that state or any person in that state;

(vi) enabling the attachment of conditions to a licence or revised licence in order to reduce or eliminate the possible adverse effects on the environment of another Member State of the European Communities;

(vii) extending the period in which a decision is to be made under this Act or any other step is to be taken;

(viii) requiring the Agency to inform the other state concerned of the decision under this Act and to provide to it information in relation to the decision;

(b) in respect of an activity to which subsection (3) applies—

(i) requiring the Agency to request the competent authority, for the purposes of the Directive, of the other state concerned (in this paragraph referred to as the ‘competent authority of the other state concerned’) to provide to it information regarding the activity or proposed activity;

(ii) requiring the Agency to consult with the competent authority of the other state concerned;

(iii) requiring the Agency to publish notices in relation to information provided to it pursuant to a request referred to in subparagraph (i);

(iv) requiring the Agency to invite comments in relation to information as aforesaid and to forward such comments to the competent authority of the other state concerned in relation to the activity or proposed activity;

(v) enabling the Agency to make submissions or observations to the competent authority of the other state concerned in relation to the activity or proposed activity.

(6) The Minister may by regulations provide that this section shall apply to a Member State of the EEA
as it applies to a Member State of the European Communities.

(7) In subsection (6) ‘Member State of the EEA’ means a state that is a contracting party to the Agreement on the European Economic Area signed at Oporto on the 2nd day of May, 1992, as amended for the time being.

Conditions attached to a licence.

86.—(1) Without prejudice to the generality of section 83(1), conditions attached to a licence or revised licence granted under this Part—

(a) shall—

(i) in accordance with section 83(4) and subject to subsection (3), include emission limit values for environmental pollutants likely to be emitted from an activity in significant quantities,

(ii) specify requirements for the purpose of minimising pollution, including minimising the occurrence of pollution over long distances or in the territory of other states, and to ensure a high level of protection for the environment as a whole,

(iii) if necessary, specify requirements concerning protection of the soil and groundwater, and the management of waste generated by an activity,

(iv) specify appropriate requirements for the purpose of monitoring emissions, including the taking and analysis of samples, the making of measurements in accordance with specified methodologies and frequencies, the evaluation of the results of such monitoring in accordance with specified procedures and the keeping of records and the furnishing of information to the Agency or to any other specified person in relation to such monitoring and evaluation (and such requirements may include a requirement that the licensee confirm whether or not he has complied with the conditions attached to the licence or revised licence and, if he has not complied with any such condition, a requirement that he indicate in what respect he has not complied with the condition),

(v) specify the measures to be taken other than in the circumstances that prevail during normal operating circumstances and, in particular, measures
to be taken if there is a breakdown of any plant or other equipment or procedures which may affect emissions from the activity, including measures to be taken in relation to start-up, shutdown, leaks, malfunctions or momentary stoppages,

(vi) specify that the Agency is to be informed without delay of any incident or accident significantly affecting the environment, and

(vii) specify the measures to be taken, including as appropriate the duration of such measures, on and following the permanent cessation of an activity (including such a cessation resulting from the abandonment of the activity);

(b) may (to the extent that the matter is not provided for by a condition under paragraph (a))—

(i) specify as appropriate the nature, composition, temperature, volume, level, rate, method of treatment and location of an emission,

(ii) specify the periods during which an emission may, or may not, be made,

(iii) specify limits to the effects of an emission,

(iv) specify the concentration of an environmental pollutant in an environmental medium or a deposition or discharge rate which shall not be exceeded,

(v) specify any matters relating to the design, construction or dimensions of pipes, chimneys, flues, stacks or other outlets through which an emission is to be made,

(vi) specify the means (including the provision, operation, maintenance and supervision of plant and other facilities and the use of specified procedures or codes of practice) to be used for controlling an emission,

(vii) specify requirements or limits in relation to the amount or composition of any substance produced by or utilised in the activity in any period,
(viii) require the provision, operation and maintenance of meters, gauges, manholes, inspection chambers and other apparatus and other means for monitoring the nature, extent and effects of emissions,

(ix) specify the type of fuel to be, or not to be, used, as the case may be,

(x) specify measures to be taken after an emission, which is not in accordance with other conditions attached to the licence or revised licence, has taken place,

(xi) specify requirements in relation to the recovery or disposal of waste arising from the activity on land other than land on which the installation is situated and whether in the ownership or occupation of the licensee or not (including requirements with respect to the furnishing of information to the Agency in relation to the land for the time being being used for the purpose of such recovery or disposal),

(xii) require the making of payments to the Agency in relation to costs incurred in relation to determining whether there has been compliance with the conditions attached to the licence or revised licence or not and in relation to steps taken for the purpose of the monitoring of, or otherwise in relation to, emissions,

(xiii) require the payment to the Agency of a charge or charges prescribed under or calculated in accordance with section 99,

(xiv) require the payment to the sanitary authority concerned of a charge in relation to a discharge to a sewer as provided for under section 99E,

(xv) specify such other conditions or requirements, including requirements in relation to environmental management systems, which the Agency considers necessary for the purposes of the Directive,

(xvi) specify the latest date by which a condition attached to the licence or revised licence is to be complied with,

(xvii) provide for derogations of a temporary nature from the requirements of subsections (1)(a)(ii) and (3)(c) if a rehabilitation plan, submitted to and
approved by the Agency, is implemented in order to ensure that the said requirements will be complied with within 6 months from the date of its first being implemented and the plan will lead to a reduction of emissions.

(2) In determining the conditions to be attached to a licence or a revised licence in respect of an activity to which paragraph 6.1 or 6.2 of the First Schedule applies, the Agency may—

(a) for the purposes of subsection (1)(a)(i), take account of practical considerations appropriate to that activity,

(b) for the purposes of subsection (1)(a)(iv), take account of costs and benefits.

(3) (a) Emission limit values for substances shall, save where the Agency directs otherwise, apply at the point where the emissions leave the installation where the activity is being carried on, any dilution being disregarded in making any determination of them.

(b) Emission limit values may, where appropriate, be supplemented or replaced by equivalent parameters or technical measures.

(c) Without prejudice to section 83(5)(b), emission limit values, and equivalent parameters and technical measures shall be based on the best available techniques, without specifying the use of any technique or specific technology, but taking into account the technical characteristics of the activity concerned, its geographical location and the local environmental conditions.

(4) Without prejudice to section 83(5)(b), the Minister may by regulations, after consultation with any other Minister of the Government who, in the opinion of the Minister, is concerned and the Agency—

(a) require either—

(i) the Agency, in the exercise of its powers under this Part, to attach, or

(ii) the Agency, in the exercise of those powers, to consider the attachment of,

the conditions referred to in subparagraph (i) or (ii), as appropriate, of paragraph (b) to a licence or a revised licence granted by it in respect of a
specified class or classes of activity (and, accordingly, such conditions shall or may, as appropriate, be attached in place of the conditions that could otherwise be attached in accordance with the preceding provisions of this section),

(b) specify the conditions that are to be the subject of—

(i) the requirement under paragraph (a)(i), and

(ii) the requirement under paragraph (a)(ii),

and, in each case, those conditions shall comply with Article 9(8) of the Directive,

(c) provide for any matters consequential on, or incidental to, the foregoing,

(d) in addition to conditions that may be, or are required to be, attached to a licence or revised licence by reason of the foregoing or any other provision of this Part, enable the Agency to attach to a licence or revised licence in respect of a specified class or classes of activity such conditions as the Agency considers appropriate in the circumstances.

(5) Nothing in subsection (4) shall be construed as enabling the Minister to exercise any power or control in relation to the performance by the Agency, with respect to a particular licence, of its functions under this Part.

(6) A person who fails to comply with any condition attached to a licence or revised licence shall be guilty of an offence.

(7) The Agency, or the sanitary authority, as the case may be, may recover the amount of any payment due to it arising from a condition attached to a licence or revised licence as a simple contract debt in any court of competent jurisdiction.

(8) Where a permission under section 34 of the Act of 2000 has been granted or an application has been made for such permission in relation to development comprising or for the purposes of an activity, the Agency—

(a) may consult with the planning authority in whose functional area the activity is or will be situate in relation to any development which is necessary to give effect to any conditions to be attached to a licence or revised licence and which the Agency considers is not the subject of a permission or an application for a permission under section 34 of the Act of 2000, and
(b) may attach to the licence or revised licence such conditions related to the above-men
tioned development as may be specified by the planning authority for the purposes of the proper planning and sustainable development of the area or stricter conditions as the Agency may consider necessary for the prevention, limitation, elimination, abatement or reduction of emissions.

(9) Where a planning authority is consulted in accordance with subsection (8)(a), the Agency may specify a period (which period shall not in any case be less than 3 weeks from the date of the request) within which observations must be made.

(10) The Agency may, at any time after expiration of the period specified by it under subsection (9) for making observations, make its decision on the application or review.

(11) Notwithstanding the requirements of Part III of the Act of 2000, works consisting of, or incidental to, the carrying out of development referred to in paragraph (a) of subsection (8) in respect of which conditions have been attached under paragraph (b) of that subsection to the licence or revised licence concerned shall be exempted development within the meaning, and for the purposes, of the Act of 2000.

87.—(1) Without prejudice to the requirements of any regulations under section 85 or 89—

(a) where an application is to be made to the Agency for a licence under section 83, or the review of a licence or a revised licence under section 90, the applicant shall notify in writing the planning authority in whose functional area the activity is or will be situate and such other person (if any) as may be prescribed, and shall publish or give such notices as may be prescribed under section 89, and

(b) where the Agency proposes to review a licence or revised licence under section 90 of its own volition, it shall publish or give such notice as may be prescribed under section 89, and shall notify in writing the licensee and the planning authority in whose functional area the activity is situate and such other person (if any) as may be prescribed, of its intention to review the licence or revised licence.

(2) Before making its decision under section 83 on an application for a licence, or under section 90 on the review of a licence or revised licence (including such a review conducted by it of its own volition), the Agency shall notify—
(a) the planning authority in whose functional area the activity is or will be situate,

(b) the applicant or the licensee, as the case may be,

(c) any person who made a written submission in relation to the application or the review, and

(d) such other persons as may be prescribed,

and that notification shall indicate the manner in which the Agency proposes to determine the application or the review and, where it is proposed to grant a licence or revised licence, specify where a copy of the proposed licence or proposed revised licence may be obtained.

(3) A notification provided for under subsection (2) shall, without prejudice to the requirements of any regulations under section 85, be given within the period of 8 weeks beginning on the date of receipt by the Agency of the application for a licence under section 83 or for the review of a licence or revised licence under section 90 or, in the case of a review of a licence by the Agency under section 90 of its own volition—

(a) unless paragraph (b) applies, on the date of publication of the notice under subsection (1)(b), in relation to the review,

(b) if the Agency has required under section 90(7) documents, particulars or other information to be furnished, on the date on which that requirement is complied with or, if that requirement is not complied with within the period specified in the requirement in that behalf, on the date immediately following the expiry of that period.

(4) The Agency shall, in relation to an application for a licence, or the review of a licence or revised licence—

(a) in case no objection is taken against the proposed determination as indicated under subsection (2), or

(b) in case an objection or objections is or are taken against the proposed determination as indicated under subsection (2) and the objection or objections is or are withdrawn,

make its decision in accordance with the proposed determination as indicated under subsection (2) and, where it is proposed to grant a licence or revised licence, grant the licence or revised licence as soon as may be after the expiration of the appropriate period.
(5) Any person may, subject to compliance with the requirements of any regulations under sections 89 and 99A at any time before the expiration of the appropriate period, object to the proposed determination as indicated under subsection (2), and shall include with the objection the grounds for the objection.

(6) (a) A person making an objection under subsection (5) may request an oral hearing of the objection.

(b) (i) A request for an oral hearing of an objection shall be made in writing to the Agency and shall be accompanied by such fee (if any) as may be payable in respect of such request in accordance with regulations under section 99A.

(ii) A request for an oral hearing of an objection which is not accompanied by such fee (if any) as may be payable in respect of such request shall not be considered by the Agency.

(c) A request for an oral hearing of an objection shall be made before the expiration of the appropriate period, and any request received by the Agency after the expiration of that period shall not be considered by it.

(7) An objection, or a request for an oral hearing under subsection (6), shall be made—

(a) by sending the objection or request by pre-paid post to the headquarters of the Agency, or

(b) by leaving the objection or request with an employee of the Agency, at the headquarters of the Agency, during office hours, or

(c) by such other means as may be prescribed.

(8) (a) Where a request for an oral hearing of an objection is made in accordance with subsection (7), or otherwise where an objection has been made, the Agency shall have an absolute discretion to hold an oral hearing in relation to the objection and the related matters and, if it decides to hold such a hearing, it shall give notice in writing of that decision to—

(i) the applicant, or in the case of a review, the licensee,

(ii) the local authority in whose functional area the activity the subject matter of
a licence application or review will be or is situate,

(iii) any person who requested an oral hearing, and

(iv) such other person as may be prescribed.

(b) Where the Agency decides not to hold an oral hearing under this subsection, it shall give notice in writing of its decision to the person who requested the oral hearing.

(9) It shall be a duty of the Agency to ensure that a decision by it to hold an oral hearing, and a decision by it on the application for a licence or on the review referred to in subsection (2) of a licence or revised licence whether or not an oral hearing has been held, shall be given as expeditiously as may be and for that purpose the Agency shall take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the consideration of objections.

(10) A person shall not by any application for judicial review or in any other legal proceedings whatsoever question the validity of a decision of the Agency to grant or refuse a licence or revised licence (including a decision of it to grant or not to grant such a licence on foot of a review conducted by it of its own volition) unless the proceedings are instituted within the period of 8 weeks beginning on the date on which the licence or revised licence is granted or the date on which the decision to refuse or not to grant the licence or revised licence is made.

(11) The provisions of this section shall not, to such extent as may be prescribed, apply to an application for a licence, or to the review (including a review by the Agency of its own volition) of a licence or revised licence, to discharge to a sewer.

(12) In this section, ‘the appropriate period’ means the period of 28 days beginning on the day on which notification is sent under subsection (2) in respect of the matter concerned.

Oral hearing and written report. 88.—(1) (a) An oral hearing provided for in section 87 shall be conducted by a person or persons appointed for that purpose by the Agency.

(b) Subject to any regulations under subsection (5), the manner in which a hearing aforesaid is conducted shall be at the discretion of the person or persons appointed under this subsection but it shall be the duty of that person or those persons, as the case may be, to ensure that the hearing is conducted without undue formality.
(2) The person or persons appointed under subsection (1) may take evidence on oath at the oral hearing and for that purpose may administer oaths, and a person giving evidence at such a hearing shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

(3) The person or persons appointed under subsection (1) shall make a written report on the objection or the objections made under section 87(5) and the hearing to the Agency and shall include in the report a recommendation relating to the grant or refusal of a licence or a revised licence and, where appropriate, the conditions to be attached to the licence or revised licence.

(4) The Agency shall consider a report made under subsection (3) before making a decision on the application for a licence, or on the review of a licence or revised licence.

(5) The Minister may make regulations in relation to the conduct of an oral hearing and the procedures at such a hearing.

Regulations regarding licences.

89.—(1) The Minister may make regulations in relation to—

(a) applications for the grant of licences, or for the review of licences or revised licences,

(b) the review of licences or revised licences by the Agency of its own volition, and

(c) the granting of licences or revised licences.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision for all or any of the following—

(a) the form and content of application and of licence,

(b) the time within which an application for a licence shall be made relative to publication of a notice under section 87(1) and relative to an application for a permission under Part III of the Act of 2000,

(c) the publication by applicants, licensees or the Agency of such notices as may be specified,

(d) specifying the submissions, plans, documents and other information and particulars, including environmental impact statements, to be forwarded to the Agency or other specified person by applicants, licensees, objectors, or other persons within such periods as may be specified,
(e) requiring applicants, licensees, objectors or other persons to furnish to the Agency or any other specified person, within such period as may be specified, such additional information or particulars relating to applications, including environmental impact statements, or reviews as the Agency may request,

(f) without prejudice to the requirements of any regulations under section 85, extending the period within which a notification to which section 87(3) refers shall be published—

(i) to 8 weeks beginning on the date on which a request for additional information, particulars or evidence under paragraph (e) or (g) is complied with,

(ii) to any period with the consent of the applicant or licensee,

(iii) to 8 weeks beginning on the day on which any exemption under section 172(3)(a) of the Act of 2000 in relation to development to which the application relates has been granted by An Bord Pleanála,

(g) requiring the production, within such period as may be specified, of such evidence as the Agency may request for the purposes of verifying any information and particulars given by an applicant, licensee, objector or other person,

(h) procedures to be followed by the Agency in the processing of applications or reviews, including procedures for consultation in relation to an environmental impact statement whether or not an oral hearing is held, and the times within which such procedures shall be carried out,

(i) the publishing of decisions on applications or reviews and the reasons therefor and of any specified documents or other information in relation thereto, or

(j) requiring an applicant or licensee to defray or contribute towards the cost of any investigation carried out, caused to be carried out, or arranged for, by the Agency in relation to an application or review.

(3) (a) A person who in relation to an application for a licence, or to a review of a licence or revised licence, under this Part, makes a statement in writing which to his knowledge is false or misleading in a material respect, shall be guilty of an offence.
Where a person is convicted of an offence under this subsection, any licence or revised licence granted to that person, or to some other person on whose behalf the convicted person was authorised to act, consequent on the application or review in relation to which the information was furnished, shall stand revoked from the date of the conviction.

(4) Regulations under this section may contain—

(a) such incidental, supplementary, consequential and transitional provisions as appear to the Minister to be necessary for the purposes or in consequence of, or to give full effect to, the regulations,

(b) such provisions as appear to the Minister to be necessary for the purposes or in consequence of the requirements of Council Directive 85/337/EC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment.

(5) A defrayment or contribution the payment of which is required under regulations made under this section shall be payable on demand and, in default of being so paid, shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Review of licences.

90.—(1) The Agency—

(a) shall, subject to subsections (4) and (5) and section 99I(7), either periodically or after such period as may be prescribed (but not before the expiry of 3 years from the date on which the licence or revised licence was granted), review a licence or revised licence, and

(b) may review a licence or revised licence at any time with the consent or on the application of the licensee.

(2) As soon as may be after it has completed a review under this section, the Agency may—

(a) in the case of a licence or revised licence, amend the licence by altering any or all of the conditions thereto (and a licence that is so amended is referred to in this Act as a ‘revised licence’), or

(b) in the case of—

(i) a licence, grant to the licensee a licence (in this Act also referred to as a ‘revised licence’) the conditions of which are, in such respects as the

\[1\] O.J. No. L175, 05.07.1985, p.40.
Agency thinks appropriate, different from those of the first-mentioned licence and the revised licence shall have effect in lieu of the first-mentioned licence,

(ii) a revised licence, exercise, in relation to it, a like power to that which it may exercise under subparagraph (i) in relation to a licence and a licence granted under this subparagraph is in this Act also referred to as a ‘revised licence’ and such a licence shall have effect in lieu of the first-mentioned revised licence.

(3) The reference where it first occurs in subparagraph (ii) of subsection (2)(b) to a revised licence includes—

(a) a reference to a licence or revised licence in relation to which the powers under subsection (2)(a) have been exercised, and

(b) a reference to a revised licence previously granted or, as the case may be, last previously granted under that subparagraph (ii).

(4) Notwithstanding anything in subsection (1), a licence or revised licence—

(a) shall be reviewed by the Agency if the Agency considers—

(i) that emissions from the activity to which the licence or revised licence relates are, or are likely to be, of such significance that the existing emission limit values, or equivalent parameters or technical measures specified in the licence or revised licence need to be reviewed or new such values, parameters or measures, as the case may be, need to be specified in the licence or revised licence,

(ii) that substantial changes in best available techniques make it possible to reduce emissions significantly from the said activity without imposing excessive costs,

(iii) that the operational safety of the said activity requires techniques, other than those currently being used in respect of it, to be used, or

(iv) that such a review is required by virtue of any act adopted by an institution of the European Communities or any agreement entered into by the State, or any enactment passed or made
after the licence or revised licence was granted or last reviewed under this section,

(b) may be reviewed by the Agency if—

(i) there is a proposal to make a substantial change to the nature or extent of an emission,

(ii) there has been a substantial change, which could not have reasonably been foreseen when the licence or revised licence was granted, in the condition of the environment or an environmental medium in the area in which the activity to which the licence or revised licence relates is situate,

(iii) evidence, which was not available when the licence or revised licence was granted, has become available, or a new standard is prescribed relating to the contents or nature of the emission concerned or the effects of the emission on the environment.

(5) If—

(a) a special control area order under section 39 of the Air Pollution Act 1987, affecting any emission from the activity to which the licence relates comes into operation in relation to the area in which the activity is situate,

(b) an air quality standard is specified in regulations made under section 50 of the Air Pollution Act 1987, in relation to any emission from the activity to which the licence relates,

(c) a relevant emission limit value is specified in regulations under section 51 of the Air Pollution Act 1987, in relation to any emission from the activity to which the licence relates,

(d) regulations under section 26 of the Local Government (Water Pollution) Act 1977, relate to an effluent the discharge of which is authorised by such a licence or to the waters to which such effluent is discharged,

(e) a relevant standard is prescribed under regulations made under the European Communities Act 1972, or any other enactment, or

(f) relevant regulations under section 106 are made in relation to any noise emissions
from the activity to which the licence relates,

the Agency shall, where necessary and notwithstanding anything in subsection (1), as soon as may be after the regulations are made or the order comes into operation, as the case may be, review the licence or revised licence.

(6) In the review of a licence or revised licence under this section, the Agency shall have regard to—

(a) any change in environmental quality in the area in which the activity to which the licence or revised licence relates is situate, and

(b) the development of technical knowledge in relation to environmental pollution and the effects of such pollution,

since the licence or revised licence was granted or last reviewed.

(7) For the purposes of a review under this section, the Agency may, by notice served on the licensee, require the licensee to furnish to it, within such period as it specifies in the requirement, such documents, particulars or other information as it so specifies.

Register of licences.

91.—(1) The Agency shall maintain a register (in this Act referred to as the ‘register of licences’) for the purposes of this Part and shall make therein all such entries and additions as may, from time to time, be prescribed.

(2) The register of licences shall be kept at the headquarters of the Agency and shall be made available for inspection by any person free of charge during office hours.

(3) When a request is made to the Agency for a copy of an entry in the register of licences, the copy shall be issued to the person requesting it on the payment by him to the Agency of such fee (if any) as the Agency shall fix not exceeding the reasonable cost of making the copy.

(4) Every document purporting to be a copy of an entry in the register of licences and purporting to be certified by an officer of the Agency to be a true copy of the entry shall, without proof of the signature of the person purporting so to certify or that he was such officer, be received in evidence in any legal proceedings and shall, unless the contrary is shown, be deemed to be a true copy of the entry and be evidence of the terms of the entry.

(5) Evidence of an entry in the register of licences may be given by production of a copy thereof certified pursuant to this section and it shall not be necessary to produce the register of licences itself.
(6) Every entry in the register of licences relating to an activity in the functional area of a planning authority shall be notified to that planning authority by the Agency as soon as may be and the planning authority shall maintain a copy of these notifications in a register which shall be made available for inspection by any person free of charge during office hours.

Limit on duration of licence.

92.—(1) Where, in the opinion of the Agency, the carrying on of the activity to which a licence or revised licence relates has not been substantially commenced within the period of 3 years beginning on the date on which the licence was granted or, as may be appropriate, the period referred to in paragraph (a) or (b) of subsection (2), and the Agency notifies the licensee of that opinion, then that licence shall cease to have effect on the giving of that notice.

(2) The Agency may, having regard to the nature of the activity to which a licence or revised licence to be granted or granted by it will relate or relates, as the case may be, and any arrangements necessary to be made or made in connection with the carrying on of the activity and any other relevant consideration—

(a) specify for the purposes of subsection (1) a period of more than 3 years beginning on the date on which the licence or revised licence is to be granted,

(b) in the case of a licence or revised licence granted by it, on an application which complies with such requirements (if any) as may be prescribed being made by the licensee in that behalf, extend for the purposes of subsection (1) the period referred to in that subsection or specified by it under paragraph (a), as may be appropriate.

(3) Where the activity to which a licence or revised licence relates ceases to be carried on then, unless the activity is resumed within the period of 3 years beginning on the date of that cessation, the licence shall cease to have effect on the expiry of the said period.

(4) The cesser of a licence's or a revised licence's effect under this section shall in no way affect or diminish such conditions, requirements or obligations applying to or falling on the licensee as are specified in or arise under the licence.

Benefit of licences.

93.—Where a licence or revised licence is granted under this Part, the grant of the licence or revised licence shall, except as may be otherwise provided by the licence or revised licence, enure for the benefit of the activity and of all persons for the time being interested therein.
Transfer of licences.

94.—(1) A licence or revised licence under this Part may be transferred from the licensee to another person in accordance with this section.

(2) Where the licensee desires that his licence or revised licence be transferred to another person (hereafter in this section referred to as ‘the proposed transferee’), the licensee and the proposed transferee shall jointly make an application to the Agency requesting that such a transfer be effected by the Agency.

(3) An application under subsection (2) shall be made in such form and include such information as may be prescribed and shall be accompanied by such fee as may be prescribed under section 99A and by the licence or revised licence concerned.

(4) The Agency may require the provision of such further information by the licensee or the proposed transferee as it considers appropriate for the purposes of dealing with an application made by them under this section.

(5) If, on consideration of an application under subsection (2), and any relevant information provided in respect thereof, the Agency is satisfied—

(a) that the proposed transferee would, if he were an applicant for the licence, be regarded by it as a fit and proper person to be granted under section 83 a like licence to the licence or revised licence concerned,

(b) that the proposed transferee has complied with any requirements under section 83(6), and

(c) regarding such other matters as may be prescribed,

it shall effect a transfer of the licence or revised licence to the proposed transferee in such manner as may be prescribed.

(6) A person to whom a licence or revised licence is transferred under this section shall be deemed to have assumed and accepted all liabilities, requirements and obligations provided for in or arising under the licence or revised licence, regardless of how and in respect of what period, including a period prior to the transfer of the licence or revised licence, they may arise.

Surrender of licences.

95.—(1) A licence or a revised licence granted under this Part may be surrendered by the licensee, but only if the Agency accepts the surrender.

(2) A licensee who desires to surrender his licence or revised licence shall make an application for that purpose to the Agency, in such form, giving such
information and accompanied by such evidence as may be prescribed and accompanied by such fee as may be prescribed under section 99A.

(3) Upon receiving an application for the surrender of a licence or revised licence, the Agency—

(a) shall inspect the installation at which the activity to which the licence or revised licence relates is carried on (‘the relevant installation’), and

(b) may require the applicant to furnish to it such further information or evidence as it may specify.

(4) For the purpose of subsection (3), the Agency may, by notice in writing served on the person, require a person who has made an application to it under subsection (2) to carry out, or arrange to have carried out, in such manner as may be specified in the notice, such monitoring, sampling and investigations, in addition to those which may be required under a condition attached to the licence or revised licence concerned, as the Agency considers necessary, and so specifies, and any requirement so made shall be regarded as a condition attaching to that licence or revised licence.

(5) Where the Agency proposes to accept the surrender of a licence or a revised licence, it shall consult with such persons and in accordance with such procedures as may be prescribed.

(6) Having regard to such information or evidence as is furnished to it under paragraph (b) of subsection (3) and to the results of an inspection under paragraph (a) of that subsection and of any monitoring, sampling and investigation required to be carried out under subsection (4), the Agency shall assess the condition of the relevant installation, so far as that condition is the result of the use of the installation for an activity, (whether the activity, the subject of the licence concerned or, if the installation, in contravention of the licence, was used for the carrying on of any other activity within the meaning of this Act, that activity) and the likely effect on the environment or any environmental medium of any emissions from the relevant installation that may occur.

(7) If the Agency is satisfied that the condition of the relevant installation is not causing or likely to cause environmental pollution and the site of the activity is in a satisfactory state, it shall accept the surrender of the licence or revised licence, but otherwise shall refuse to accept the surrender of the licence or revised licence.

(8) A decision of the Agency under subsection (7) shall be conveyed to—

(a) the applicant concerned,
(b) the local authority in whose functional area the activity, the subject matter of the licence or revised licence, has been carried on, and

(c) any person concerned that it has consulted under subsection (5),

by notice in writing, as soon as may be after the decision is made and where the decision is a decision to accept the surrender of a licence or revised licence, that licence or revised licence shall cease to have effect upon the service of the said notice.

(9) The making of an application for the surrender of a licence or revised licence under this section, or the cesser of the activity to which a licence relates, shall in no way affect or diminish such conditions, requirements or obligations applying to or falling on the licensee as are specified in or arise under the licence or revised licence.

96.—(1) The Agency may amend a licence or revised licence for the purposes of—

(a) correcting any clerical error therein,

(b) facilitating the doing of any thing pursuant to a condition attached to the licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence taken as a whole but which was not expressly provided for in the condition, or

(c) otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of section 83(5) ceasing to be satisfied.

(2) None of the requirements of section 90 or of any other provision of this Part shall apply to the exercise of the power under subsection (1) but the Agency shall, where appropriate, consult with the licensee before exercising the power.

97.—(1) The Agency may revoke, or suspend the operation of, a licence or revised licence if it appears to the Agency that—

(a) the licensee no longer satisfies the requirements specified in section 84(4) for his being regarded as a fit and proper person, and

(b) the circumstances occasioning his no longer satisfying those requirements are, in the opinion of the Agency, of such seriousness
as to warrant the revocation of the licence or the suspension of its operation.

(2) References in this Act to the cessation of the activity to which a licence or revised licence relates shall be construed as including references to such a cessation in consequence of the revocation of the licence.

(3) None of the requirements of section 90 or of any other provision of this Part shall apply to the exercise of the power under subsection (1) but where the Agency proposes to exercise the power it shall afford the licensee and any other person whom it considers ought to be afforded such an opportunity an opportunity to make representations to it in relation to the matter.

(4) The cesser of a licence’s or a revised licence’s effect under this section shall in no way affect or diminish such conditions, requirements or obligations (being conditions, requirements or obligations that apply to, or fall on, the licensee by virtue of the licence) as may be specified by the Agency in exercising the powers under this section.

(5) The licensee or the former licensee may appeal to the High Court against a revocation or suspension of a licence or revised licence under this section and, on the hearing of the appeal, the High Court may confirm or annul the revocation or suspension or, in the case of a suspension, vary the period for which the suspension shall operate.

A iterations of activity.

98.—(1) The person in charge of—

(a) an activity in respect of which a licence or revised licence is in force or required under this Part, or

(b) an established activity which for the time being is not required to be licensed under this Act,

shall give notice in writing to the Agency of any proposal to effect any alteration to, or reconstruction in respect of, the activity if such alteration or reconstruction would, or is likely to, change or increase emissions from the activity or cause new emissions therefrom.

(2) Whenever the Agency receives a notice under this section or otherwise becomes aware of an alteration or reconstruction referred to in subsection (1) which would not, in the opinion of the Agency, substantially change or increase emissions from the activity or cause significant new emissions therefrom, the Agency, notwithstanding any other provision of this Act, may—

(a) if there is a licence or revised licence in force in respect of the activity concerned,
review that licence under section 90 and exercise the powers under paragraph (a) or (b) of subsection (2) of that section in relation to it,

(b) if there is no such licence in force, direct, by notice served on the person, the person in charge to apply for a licence, or

(c) determine that no further action is necessary in relation to the matter,

and, save in a case falling within paragraph (c), the person in charge shall not effect the alteration or reconstruction unless and until the powers under paragraph (a) or (b) of that subsection (2) have been exercised in a way that allows or, as the case may be, a new licence or licence has been granted that allows, the alteration or reconstruction to be effected.

(3) Whenever the Agency receives a notice under this section or otherwise becomes aware of an alteration or reconstruction referred to in subsection (1) which would, in the opinion of the Agency, substantially change or increase emissions from the activity or cause significant new emissions therefrom, the Agency, notwithstanding any other provision of this Act, shall—

(a) if there is a licence or revised licence in force in respect of the activity concerned, either review that licence under section 90 and exercise the powers under paragraph (a) or (b) of subsection (2) of that section in relation to it or direct the person in charge to apply for a new licence in substitution for that licence, or

(b) if there is no such licence in force, direct, by notice served on the person, the person in charge to apply for a licence,

and the person in charge shall not effect the alteration or reconstruction unless and until the powers under paragraph (a) or (b) of that subsection (2) have been exercised in a way that allows or, as the case may be, a new licence or licence has been granted that allows, the alteration or reconstruction to be effected.

(4) Where the Agency decides pursuant to subsection (2) or (3) to review a licence or revised licence, or to direct a person to apply for a new licence or, as the case may be, a licence, the Agency shall—

(a) within 1 month of the receipt by it of the notice under this section, or the date on which the Agency otherwise becomes aware of the matters referred to at subsection (1), inform the person accordingly, and

(b) proceed to complete the review of the licence or revised licence and exercise the
appropriate powers under subsection (2) of section 90 in relation to it, or determine the application for a new licence or licence, as the case may be.

(5) Not later than the end of 3 months from the commencement of section 12 of the Protection of the Environment Act 2003, a person in charge of an established activity shall, if—

(a) an alteration or reconstruction in respect of that activity was effected on or after 30 October 1999 but before the commencement of that section 12,

(b) that alteration or reconstruction was not required to be notified to the Agency under section 92(1) of the previous Part IV, and

(c) that alteration or reconstruction has changed or increased, or is likely to change or increase, emissions from that activity or is likely to cause new emissions therefrom,

give notice in writing of that alteration or reconstruction to the Agency and such a notice shall be dealt with by the Agency as if it were a notice received by it under subsection (1).

(6) If a notice is given to the Agency under and in accordance with subsection (5) in relation to the activity concerned, the activity may continue to be carried on save where (if such be the case), in consequence of the exercise of any of the powers referred to in subsection (2) or (3), it becomes unlawful or unlawful, otherwise than in specified circumstances, to carry on the activity.

(7) Charges in relation to emissions.—(1) The Agency may, in accordance with regulations made by the Minister, with the consent of the Minister for Finance and the Minister for Enterprise, Trade and Employment, under this section, make charges in relation to such emissions to the environment from such activities as may be specified in the regulations.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision for all or any of the following purposes—

(a) specifying the emissions in relation to which a charge under this section may be imposed,

(b) specifying the manner in which such a charge is to be imposed,

(c) specifying the method by which the amount of such charge is to be calculated,
(d) enabling the Agency to make different charges under this section in respect of different emissions and in different circumstances,

(e) specifying the manner in which representations may be made to the Agency regarding the imposition of a charge under this section and provide for the procedures to be followed in respect of such representations,

(f) providing for the amendment, revocation or review of charges imposed under this section.

(3) The Agency may recover the amount of any charges made by it under this section from the person by whom they are payable as a simple contract debt in any court of competent jurisdiction.

Fees. 99A.—(1) The Minister may make regulations providing for the payment to the Agency, or such other public authority or other body as may be specified, of fees in relation to—

(a) applications for licences under section 83,

(b) applications for reviews of licences or revised licences under section 90,

(c) reviews carried out pursuant to determinations under section 82(10)(b),

(d) examinations carried out under section 82(10)(a),

(e) a request for an oral hearing under section 87,

(f) an application made to the Agency in relation to the extension for the purposes for section 92 of a period mentioned in that section,

(g) applications for the transfer of licences or revised licences under section 94,

(h) applications for the surrender of licences or revised licences under section 95,

(i) the operation of an accreditation scheme or an analytical quality control programme under section 66,

(j) the operation of a labelling scheme under section 78,

(k) the operation of a system of control for the prevention or limitation of noise under section 106, or
(1) the operation of a system of control over genetically modified organisms under section 111,

and the regulations may provide for different fees or for exemption from the payment of fees or for the waiver, remission or refund (in whole or in part) of fees in different circumstances or classes of circumstances or for different cases or classes of cases and for the manner in which fees are to be disposed of.

(2) Where under regulations under this section a fee is payable in respect of any application or matter, the application or matter shall be invalid and shall not be decided or otherwise dealt with, as may be appropriate, by the Agency or such other public authority or other body as may be concerned unless the Agency or other public authority or other body, as the case may be, is in receipt of the fee.

(3) Regulations under paragraph (a), (b) or (c) of subsection (1) shall not be made otherwise than with the consent of the Minister for Finance and the Minister for Enterprise, Trade and Employment.

Special cases.

99B.—(1) The Minister may, by order, as respects any process, development or operation that is not specified in the First Schedule, do both of the following, namely, provide that—

(a) any requirement under—

(i) Part III of the Air Pollution Act 1987,
(ii) section 4 or 16 of the Local Government (Water Pollution) Act 1977, or
(iii) section 171 of the Fisheries (Consolidation) Act 1959,

as appropriate, that a licence under such an enactment be in force for the carrying on of the process, development or operation shall cease to apply to it,

and

(b) a licence under this Part shall be required for the carrying on of it,

and where such an order is made the provisions of this Act shall apply in relation to the process, development or operation concerned as if it were an activity for so long as the order remains in force.

(2) Without prejudice to the generality of subsection (1), an order under this section may be made—

(a) because of the location of the process, development or operation, or the quality of the environment in the area in which
the process, development or operation will be carried out,

(b) because, at the time of the enactment of this Act or the most recent amendment of the First Schedule, no such process, development or operation existed in the State, or

(c) because evidence related to any impact on the environment of such process, development or operation which was not available has become available.

Monitoring of environmental quality and emissions.

99C.—(1) The Agency shall, in relation to an activity, carry out, cause to be carried out, or arrange for, such monitoring of—

(a) environmental quality, and

(b) the nature, extent and effects of emissions to the environment,

as the Agency may consider necessary for the performance of its functions under this Part.

(2) The Agency may, as it considers necessary, by notice served on the person, require the person in charge of an activity from which there is an emission to the environment to carry out such monitoring of the nature, extent and effect of the emission and of the quality of any environmental medium likely to be affected by such emission, and to keep and to supply to the Agency such records of the monitoring, as the Agency considers necessary.

(3) The Agency shall carry out, cause to be carried out, or arrange for, such monitoring or other measures as it considers necessary to verify the monitoring or records of such monitoring provided for under subsection (2).

(4) The Agency shall, if so directed by the Minister, supply to him or to any person specified by him, at such intervals and in such manner as the Minister may direct, records of any monitoring carried out under this section.

Mass balances of specified substances.

99D.—(1) The Minister may, for the purposes of—

(a) determining the extent of, and making available to members of the public information in relation to, the release of substances to environmental media resulting from the use or consumption of any specified class or classes of substance in any specified class or classes of process, development or operation (whether or not comprising an activity to which this Part applies),

(b) determining, and making available information in relation to, the relationship
make regulations requiring a person who carries out a process, development or operation aforesaid to make such determination of, and provide to the Agency or specified public authorities, or publish, such information in relation to, the matters referred to in paragraphs (a) and (b) as may be specified in the regulations.

(2) Without prejudice to the generality of subsection (1), regulations under this section may provide for all or any of the following:

(a) requiring the person concerned to make on specified dates or at specified intervals measurements, calculations, estimates or projections of the release of substances to environmental media,

(b) prescribing the methods or procedures to be used in the making of such measurements, calculations, estimates or projections,

(c) requiring records or registers in a specified form to be kept by the person concerned of, or in which there shall be entered by him, specified particulars as respects the release of substances to environmental media and the use or consumption of any substance in a process, development or operation that gives rise to such a release,

(d) the intervals and the manner in which information as respects the matters aforesaid shall be provided by the person concerned to the Agency or other public authorities or be published,

(e) matters consequential on, or incidental to, the foregoing.

(3) The Agency and any prescribed public authority shall each publish information that has been provided to it pursuant to regulations under this section in such manner and subject to such conditions as may be prescribed.

Discharges to sewers.—(1) Where the Agency proposes to grant a licence (including a revised licence) which involves a discharge of any trade effluent or other matter (other than domestic sewage or storm water) to a sewer, it shall obtain the consent of the sanitary authority in which the sewer is vested, or by which the sewer is controlled, to such a discharge being made.

(2) Where consent is sought in accordance with subsection (1), the Agency may specify a period
(which period shall not in any case be less than 4 weeks from the date on which the consent is sought) within which the consent may be granted subject to, or without, conditions or refused; any consent purporting to be granted (whether subject to or without conditions) after the expiry of that period, or any decision given purporting to refuse consent after that expiry, shall be invalid and in those circumstances the Agency may proceed to grant the licence concerned as if the requirements of subsection (1) had been satisfied.

(3) Subject to subsection (4), a consent under subsection (1) may be granted subject to or without conditions and if it is granted subject to conditions the Agency shall include in the licence or revised licence concerned conditions corresponding to them or, as the Agency may think appropriate, conditions more strict than them.

(4) The conditions that may be attached to a consent by a sanitary authority under this section are the following and no other conditions, namely conditions—

(a) relating to—

(i) the nature, composition, temperature, volume, level, rate, and location of the discharge concerned and the period during which the discharge may, or may not, be made,

(ii) the provision, operation, maintenance and supervision of meters, gauges, manholes, inspection chambers and other apparatus and other means for monitoring the nature, extent and effect of emissions,

(iii) the taking and analysis of samples, the keeping of records and furnishing of information to the sanitary authority,

(b) providing for the payment by the licensee to the sanitary authority concerned of such amount or amounts as may be determined by the sanitary authority having regard to the expenditure incurred or to be incurred by it in monitoring, treating and disposing of discharges of trade effluent, sewage effluent and other matter to sewers in its functional area or a specified part of its functional area,

(c) specifying a date not later than which any conditions attached under this section shall be complied with,

(d) relating to, providing for or specifying such other matter as may be prescribed.

(5) A sanitary authority may request the Agency
to review a licence or revised licence to which this section relates—

(a) at intervals of not less than 3 years from the date on which the licence or the revised licence is granted, or,

(b) at any time with the consent, or on the application, of the person making, causing or permitting the discharge, or

(c) at any time if—

(i) the sanitary authority has reasonable grounds for believing that the discharge authorised by the licence or revised licence is, or is likely to be, injurious to public health or is likely to render the waters to which the sewer concerned discharges unfit for use for domestic, commercial, industrial, fishery (including fish-farming), agricultural or recreational uses or is, or is likely to be otherwise, a serious risk to the quality of the waters,

(ii) there has been a material change in the nature or volume of the discharge,

(iii) there has been a material change in relation to the waters to which the sewer concerned discharges, or

(iv) further information has become available since the date on which the licence or revised licence was granted relating to polluting matter present in the discharge concerned or relating to the effects of such matter,

and the Agency shall consider and may comply with such request and shall have regard to any submission on the matter received from the sanitary authority.

99F.—(1) Notwithstanding section 34 of the Act of 2000, or any other provision of that Act, where a licence or revised licence under this Part has been granted or is or will be required in relation to an activity, a planning authority or An Bord Pleanála shall not, where it decides to grant a permission under section 34 of that Act in respect of any development comprising or for the purposes of the activity, subject the permission to conditions which are for the purposes of—

(a) controlling emissions from the operation of the activity, including the prevention, elimination, limitation, abatement, or reduction of those emissions, or
(b) controlling emissions related to or following the cessation of the operation of the activity.

(2) Where a licence or revised licence under this Part has been granted or is or will be required in relation to an activity, a planning authority or An Bord Pleanála may, in respect of any development comprising or for the purposes of the activity, decide to refuse a grant of permission under section 34 of the Act of 2000, where the authority or An Bord Pleanála considers that the development, notwithstanding the licensing of the activity under this Part, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development is or will be situate.

(3) (a) Before making a decision in respect of a development comprising or for the purposes of an activity, a planning authority or An Bord Pleanála may request the Agency to make observations within such period (which period shall not in any case be less than 3 weeks from the date of the request) as may be specified by the authority or the Board in relation to the development, including in relation to any environmental impact statement submitted.

(b) When making its decision, the authority or An Bord Pleanála, as the case may be, shall have regard to the observations, if any, received from the Agency within the period specified under paragraph (a).

(4) The planning authority or An Bord Pleanála may, at any time after the expiry of the period specified by the authority or An Bord Pleanála under subsection (3)(a) for making observations, make its decision on the application or appeal.

(5) The Minister may by regulations make such incidental, consequential or supplementary provision as may appear to him to be necessary or proper to give full effect to any of the provisions of this section.

(6) Without prejudice to the generality of subsection (5), regulations under this section may provide for matters of procedure in relation to the request for or the making of observations from or by the Agency under this section and related matters.

(7) The making of observations by the Agency under this section shall not prejudice any other function of the Agency under this Act.

(8) Notwithstanding the provisions of the Minerals Development Acts 1940 to 1999, where a licence or revised licence under this Part has been granted or is or will be required in relation to an activity, a lease granted by the Minister for Communications, Marine
and Natural Resources under the said Acts in respect of the same activity shall not contain conditions which are for the purpose of the prevention, elimination, limitation, abatement or reduction of emissions to the environment from the activity.

(9) Without prejudice to the preceding subsections, where a licence or revised licence under this Part is granted in relation to an activity and—

(a) a permission under section 34 of the Act of 2000, or

(b) a lease under the Minerals Development Acts 1940 to 1999,

has been granted in respect of the same activity or in relation to development for the purposes of it, any conditions attached to that permission or contained in that lease, as the case may be, shall, so far as they are for the purposes of the prevention, elimination, limitation, abatement or reduction of emissions to the environment, cease to have effect.

(10) The grant of a permission or lease under any of the Acts of the Oireachtas referred to in this section in relation to any activity shall not prejudice, affect or restrict in any way the application of any provision of this Act to such activity.

99G. — (1) Without prejudice to the requirements of the Directive, where the Agency proposes to grant a licence or revised licence in respect of an established activity for which a licence has been granted under—

(a) Part III of the Air Pollution Act 1987,

(b) section 4 or 16 of the Local Government (Water Pollution) Act 1977, or

(c) section 171 of the Fisheries (Consolidation) Act 1959,

the Agency shall, if the licence or revised licence under this Part is being granted during the period of 3 years from the grant of a licence referred to in paragraph (a), (b) or (c), have regard to the conditions (if any) attached to such licence and the costs in relation to the activity which would be incurred if different conditions were attached to the licence or revised licence to be granted by the Agency.

(2) On and after the commencement of section 12 of the Protection of the Environment Act 2003, the Agency shall ensure that an activity for which a licence is required under this Part is carried on in accordance with the enactments mentioned in subsection (1) until a licence under this Part is granted in respect of the activity and any reference to a local authority, sanitary authority or the Minister for Communications, Marine and Natural Resources in
any licence or any conditions attached to a licence granted under the above-mentioned enactments in relation to such activity shall be deemed to be a reference to the Agency.

(3) The Minister may, for the purposes of subsection (2), make regulations providing that such functions conferred by the enactments mentioned in subsection (1) as are specified in the regulations shall, to such extent as may be so specified, be performable by the Agency in lieu of the local authority, sanitary authority or the Minister for Communications, Marine and Natural Resources in relation to the activities concerned.

(4) Where, immediately before the commencement of section 12 of the Protection of the Environment Act 2003, there is an application for a licence or a review of a licence under an enactment mentioned in paragraph (a), (b) or (c) of subsection (1) in respect of an activity for which a licence under this Part is required, and the application or review has yet to be determined, the application or review shall be dealt with and decided under this Part by the Agency as if it were an application to the Agency for a licence under this Part and the local authority or sanitary authority or the Minister for Communications, Marine and Natural Resources, as the case may be, shall furnish the Agency, within a period of 1 month from the commencement of that section or 14 days from the date of a request from the Agency for any documents or information, whichever shall be the later, with all such documents and information in its or his possession as it may require for this purpose.

(5) The day or the last of the days, as may be appropriate, on which all the documents and information referred to in subsection (4) are furnished to the Agency in accordance with that subsection by the local authority, sanitary authority or the Minister for Communications, Marine and Natural Resources, as the case may be, shall be deemed to be the date of an application for a licence under this Part.

(6) Notwithstanding the provisions of this section, this Part shall not apply to an activity where an appeal to An Bord Pleanála under section 34 of the Air Pollution Act 1987, or section 8 or 20 of the Local Government (Water Pollution) Act 1977, as inserted by the Local Government (Water Pollution) (Amendment) Act 1990, has been or may still be made, until the time for making the appeal has expired or the appeal has been determined or withdrawn and the licence (if any) granted, as the case may be.

Powers of High Court in relation to activities in contravention of this Act.

99H.—(1) Where, on application by any person to the High Court, that Court is satisfied that an activity is being carried on in contravention of the requirements of this Act, it may by order—

(a) require the person in charge of the activity
to do, refrain from or cease doing any specified act (including to refrain from or cease making any specified emission),

(b) make such other provision, including provision in relation to the payment of costs, as the Court considers appropriate.

(2) A n application for an order under this section shall be by motion, and the High Court when considering the matter may make such interim or interlocutory order as it considers appropriate.

(3) A n application for an order under this section may be made whether or not there has been a prosecution for an offence under this Act in relation to the activity concerned and shall not prejudice the initiation of a prosecution for an offence under this Act in relation to the activity concerned.

(4) Without prejudice to the powers of the High Court to enforce an order under this section, a person who fails to comply with an order under this section shall be guilty of an offence.”.

Chapter 3
Groundwater Protection

13.—The following Part is inserted in the Act of 1992 after Part IV:

“PART IVA

Water Pollution

99I.—(1) In this Part, unless where the context otherwise requires—

‘aquifer’ means a stratum or combination of strata that stores or transmits groundwater;


(2) This Part applies to an activity which gives rise to, or could give rise to, an emission containing a hazardous substance which is discharged to an aquifer.

(3) In addition to the requirements imposed on it by Part IV to attach conditions, the Agency shall attach to any licence or revised licence that may be granted by it in relation to an activity to which this Part applies such conditions as are, in the opinion of

the Agency, necessary to give effect to Articles 3, 4, 5, 6, 8, 9 and 10 of the Directive.

(4) Without prejudice to section 83(2), the Agency shall, in considering an application for a licence or the review of a licence or a revised licence in relation to an activity to which this Part applies, have regard to the results of investigations carried out in accordance with subsection (6).

(5) Without prejudice to section 83(5), the Agency shall not grant a licence or revised licence in relation to an activity to which this Part applies unless it is satisfied that the activity will be carried on in a manner which complies with the requirements of the Directive.

(6) Before making its decision under section 83(1) on an application for a licence, or under section 90 on the review of a licence, the Agency shall carry out or cause to be carried out (by the applicant or otherwise) such investigations as it considers necessary in order to comply with the requirements of Articles 4, 5 and 7 of the Directive.

(7) Notwithstanding subsection (1)(a) of section 90, a licence or revised licence granted by the Agency in relation to an activity to which this Part applies shall be reviewed by the Agency under that section at intervals which do not exceed 4 years.”.

Chapter 4

Amendment of section 111 of, and First Schedule to, Act of 1992

14.—Section 111 of the Act of 1992 is amended by substituting the following subsection for subsection (1):

“(1) The Minister, after consultation with the Minister for Enterprise, Trade and Employment and any other Minister of the Government who in the opinion of the Minister is concerned, may—

(a) for the purposes of—

(i) environmental protection,

(ii) the prevention of danger to health or damage to property, or

(iii) the preservation of amenities,

and

(b) without prejudice to the generality of the foregoing, for the purposes of giving full effect to any act adopted by an institution of the European Communities that relates to any of the matters mentioned in this section,
make regulations for the control, management, regulation or prohibition of any process or action or class of processes or actions, involving a genetically modified organism.”.

15.—The Schedule set out in Schedule 1 to this Act is substituted for the First Schedule to the Act of 1992.

PART 3
Amendment of Act of 1996

16.—Section 2 of the Act of 1996 is amended by inserting the following in the Table to that section:


17.—(1) Section 5(1) of the Act of 1996 is amended by inserting the following definition after the definition of “waste licence”:

“‘waste service’ means any service, facility, approval or other thing which a local authority may or is required to render, supply, grant, issue or otherwise provide in the performance of any of its functions under this Act to any person or in respect of any premises;”.

(2) Section 5 of the Act of 1996 is amended by substituting the following subsection for subsection (2):

“(2) (a) A reference in this Act to ‘best available techniques’ shall be construed as meaning the most effective and advanced stage in the development of an activity and its methods of operation, which indicate the practical suitability of particular techniques for providing, in principle, the basis for emission limit values designed to prevent or eliminate, or where that is not practicable, generally to reduce an emission and its impact on the environment as a whole.

(b) For the purposes of paragraph (a)—

(i) ‘best’, in relation to techniques, means the most effective in achieving a high general level of protection of the environment as a whole;

(ii) ‘available techniques’ means those techniques developed on a scale which allows implementation in the relevant class of activity specified in the Third and Fourth Schedules, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced within the State, as long as they are

reasonably accessible to the person carrying on the activity;

(iii) ‘techniques’ includes both the technology used and the way in which the installation is designed, built, managed, maintained, operated and decommissioned.

(c) In determining the best available techniques, special consideration shall be given to the matters for the time being specified in Annex IV of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control and such other matters as may be prescribed.”.

18.—The Act of 1996 is amended (other than in section 5(2)) by substituting “best available techniques” for “best available technology not entailing excessive costs” in each place where those words appear.


(2) Section 22 of the Act of 1996 is amended—

(a) in subsection (1), by deleting in the definition of “waste management plan” “or subsection (10)(f)” (inserted by the Act of 2001), and

(b) in subsection (10), by substituting the following paragraph for paragraphs (d), (e) and (f) (inserted by the Act of 2001):

“(d) On and from the commencement of section 19(2)(b) of the Protection of the Environment Act 2003, the review, variation or replacement of a waste management plan shall be an executive function.”.

20.—(1) In this section—

“Act of 2001” has the same meaning as it has in section 19 of this Act;

“relevant subsection” means subsection (10C) (inserted by the Act of 2001) of section 22 of the Act of 1996.

(2) Each division of the relevant subsection prefixed with the figure “1”, “2”, or “3” in brackets shall be read and operate, and be construed as always having been intended to be read and operate, as a paragraph prefixed with, as appropriate, the letter “a”, “b” or “c” in brackets.

(3) Each subdivision of a foregoing division, being the division prefixed with the figure “1” or “3” in brackets, shall be read and operate, and be construed as always having been intended to be read and operate, as a subparagraph prefixed with, as appropriate, the figure “i” or “ii” in brackets.
(4) The reference in the relevant subsection, in the third division thereof, to "subsection (2)" shall be read, and be construed as always having been intended to be read, as a reference to "paragraph (b)".

21.—Section 32(6) of the Act of 1996 is amended—

(a) by inserting in paragraph (b), after "under this Act", "a permit, authorisation or certificate referred to in section 39(5)(c) (inserted by Statutory Instrument No. 166 of 1998)",

(b) by inserting the following paragraph after paragraph (b):

"(c) In a prosecution for a contravention of subsection (1), where it is proved that—

(i) a waste collection permit or waste licence under this Act, a permit, authorisation or certificate referred to in section 39(5)(c) or a licence or revised licence under Part IV of the Act of 1992 was required for the carrying on of the activity concerned, and

(ii) such a permit, licence, authorisation or certificate was not in force in respect of the carrying on of that activity or was not being complied with in any respect,

then it shall be presumed, until the contrary is shown, that the carrying on of that activity was likely to cause environmental pollution.".

22.—Section 33(6) of the Act of 1996 is amended—

(a) by inserting in paragraph (a), after "is not complied with", "(and, for the avoidance of doubt, such a provision includes the provision referred to in section 35(3)(gg))", and

(b) by inserting the following paragraph after paragraph (a):

"(aa) if that person has failed to pay a charge made under section 75 in respect of the collection of the waste concerned, or".

23.—Section 35(3) of the Act of 1996 is amended by inserting the following paragraph after paragraph (g):

"(gg) that waste placed for collection shall bear evidence, in such a manner or form as is provided in the bye-laws, of the payment of any charge that has been made under section 75 in respect of the collection of the waste,.".

24.—Section 39(7) of the Act of 1996 is amended, in paragraph (a) (inserted by the Waste Management (Amendment) Act 2001), by substituting "paragraph 7.7.1, 7.7.2 or 11.1" for "paragraph 11.1".
The following section is inserted after section 39 of the Act of 1996:

39A.—(1) The purpose of this section is to provide that, in relation to activities which are related to one another in the manner mentioned in this section, a single licence under either this Part or Part IV of the Act of 1992, but not a licence under both those Parts, will be required for the carrying on of those activities and that this Part or that Part IV applies, accordingly, to those activities.

(2) This section has effect in relation to the following activities, namely—

(a) the recovery or disposal of waste (‘the first activity’), and

(b) an activity specified in the First Schedule to the Act of 1992 (‘the second activity’),

where the first activity is carried on in a facility connected or associated with the second activity.

(3) If the Agency is of the opinion that the carrying on of the second activity will be subsidiary to the carrying on of the first activity and declares, in writing, that it is of that opinion then, notwithstanding anything in this Part or Part IV of, or the First Schedule to, the Act of 1992—

(a) the second activity (irrespective of whether it would otherwise be so regarded) shall be regarded as an activity falling within section 39(1) and, accordingly—

(i) the carrying on of it and of the first activity, shall require, and may be the subject of the grant of, a waste licence under that section, and

(ii) the provisions of this Part shall otherwise apply in relation to any such activity,

and

(b) neither the carrying on of the first activity, if it would otherwise be regarded, nor of the second activity shall be regarded as requiring the grant of a licence under Part IV of the Act of 1992.

(4) If the Agency is of the opinion that the carrying on of the first activity will be subsidiary to the carrying on of the second activity and declares, in writing, that it is of that opinion then, notwithstanding anything in this Part or Part IV
of the Act of 1992—

(a) the first activity (irrespective of whether it would otherwise be so regarded) shall be regarded as an activity falling within section 82 of the Act of 1992 and, accordingly—

(i) the carrying on of it and of the second activity, shall require, and may be the subject of the grant of, a licence under Part IV of that Act, and

(ii) the provisions of that Part shall otherwise apply in relation to any such activity,

and

(b) neither the carrying on of the second activity, if it would otherwise be regarded, nor of the first activity shall be regarded as requiring the grant of a waste licence under section 39(1).

(5) For the purposes of this section 'subsidiary' means subsidiary having regard to one or, as the Agency may consider appropriate, more than one, of the following, namely—

(a) the primary purpose of the activities concerned,

(b) the size of each of the activities concerned relative to one another and any change in that regard likely to occur during the time the proposed licence will be in force,

(c) the relative likely effects on the environment of each of the activities,

(d) whether one of the activities concerned is incidental to, or consequential on, the other.

(6) A declaration under subsection (3) or (4)—

(a) may be made by the Agency of its own volition, and

(b) shall be made by the Agency, on a request being made to it under subsection (7), if the conditions specified in that subsection are complied with.

(7) A person, before making an application for a waste licence under section 39(1) or a licence under section 82 of the Act of 1992 in relation to the carrying on of 2 or more activities, may request the Agency to make a declaration under subsection (3) or (4) in relation to those activities
and the Agency shall accede to that request if the following conditions are complied with—

(a) the Agency is satisfied of the bona fides of the request,

(b) the person has supplied sufficient particulars to the Agency with respect to the activities, and

(c) the Agency determines that it is appropriate to accede to the request,

but, in the case of an application for a declaration under subsection (3), the Agency may, instead, make a declaration under subsection (4) and, in the case of an application for a declaration under subsection (4), the Agency may, instead, make a declaration under subsection (3), where, in either case, it considers it appropriate to make the declaration under the other subsection.

(8) Nothing in this section operates to disapply section 39(1), or section 82 of the Act of 1992, as the case may be, if the activities referred to in this section cease to be related to one another in the manner mentioned in this section.

(9) For the avoidance of doubt, this section shall apply and, in particular, a declaration under it may be made in respect of an application made before the commencement of section 25 of the Protection of the Environment Act 2003, for a waste licence under section 39 or for a licence or revised licence under section 82 of the Act of 1992.

(10) The Minister may by regulations make such incidental, consequential or supplementary provision as may appear to him or her to be necessary or proper to give full effect to any of the provisions of this section.”.

26.—Section 40 of the Act of 1996 is amended—

(a) by substituting the following clause for clause (I) of subsection (2)(b)(ii):

“(I) any environmental impact statement which is submitted to the Agency under and in accordance with a requirement of, or made pursuant to, regulations under section 45, in so far as the said statement relates to the risk of environmental pollution from the waste activity concerned,”;

(b) by deleting subsection (3),

(c) by inserting the following paragraph after paragraph (b) of subsection (4):

“(bb) if the activity concerned involves the landfill of waste, the activity, carried on in accordance with
such conditions as may be attached to the licence, will comply with Council Directive 1999/31/EC on the landfill of waste,’’,

(d) by inserting the following paragraph after paragraph (c) of subsection (4):

‘‘(cc) the activity concerned is consistent with the objectives of the relevant waste management plan or the hazardous waste management plan, as the case may be, and will not prejudice measures taken or to be taken by the relevant local authority or authorities for the purpose of the implementation of any such plan,’’,

and

(e) by inserting in subsection (7)(a), after ‘‘this Act’’, ‘‘or the Act of 1992’’.

27.— Section 41 of the Act of 1996 is amended—

(a) in subsection (2)(a), by substituting the following sub-paragraph for subparagraph (vii):

‘‘(vii) require the monitoring of such environmental media as, in the opinion of the Agency, may be affected by or as a result of the activity concerned, and require the Agency to be informed of the results of such monitoring and, without delay, of any incident or accident which causes, or is likely to cause, environmental pollution,’’,

(b) in subsection (6), by inserting after ‘‘complies’, ‘‘, or is capable of compliance,’’.

28.— The following section is substituted for section 46 of the Act of 1996:

‘‘46.—(1) Without prejudice to subsections (2) and (5), the Agency may review a waste licence—

(a) on any of the grounds referred to in subsection (3),

(b) with the consent of, or upon an application in that behalf being made by, the holder of the licence,

(c) upon receipt of a notification under subsection (6), or

(d) at a time not less than 3 years from the date on which the licence was granted.

(2) The Agency shall review a waste licence if—

(a) it considers—

(i) that pollution arising from or as a result of the activity to which the waste licence relates is of such significance that the existing limit values specified in the waste licence need to

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be revised or new such values need to be specified in the waste licence,

(ii) that substantial changes in best available techniques make it possible to reduce emissions from the said activity significantly without imposing excessive costs,

(iii) that the operational safety of the said activity requires techniques, other than those currently being used in respect of it, to be used,

or

(b) new requirements (whether in the form of standards or otherwise) are prescribed, by or under any enactment or Community act, being requirements that relate to—

(i) the conduct or control of the activity to which the waste licence relates,

(ii) the content or nature of an emission concerned, or

(iii) the effects of the activity on such an emission.

(3) The grounds mentioned in subsection (1)(a) are:

(a) there has been a material change in the nature of the activity to which the waste licence relates, or in the nature or extent of an emission concerned, or of the location in which the said activity is carried on or an adjacent area,

(b) there has been a material change, which could not reasonably have been foreseen when the waste licence was granted, in the condition of the environment in the area in which the activity to which the licence relates is carried on,

(c) evidence, which was not available when the waste licence was granted and would have materially affected the decision of the Agency to grant the licence subject to the conditions to which it was granted, has become available.

(4) In the review of a waste licence under this section, the Agency shall have regard to—

(a) any change in the quality of the environment in the area in which the activity to which the waste licence relates is carried on, and

(b) the development of technical knowledge in relation to environmental pollution and the effects of such pollution,

since the waste licence was granted or last reviewed.

(5) (a) The Agency shall review a waste licence upon receipt of a notification under section 40(13), or on otherwise becoming aware of the cessation of
the activity to which the licence relates, or following a refusal by it to accept the surrender of the licence under section 48(7).

(b) In a review under this subsection, the Agency shall determine such measures as are in its opinion necessary for the purpose of, as appropriate—

(i) the closure, restoration, remediation or after-care of any facility concerned for the recovery or disposal of waste,

(ii) environmental protection,

and may grant a revised waste licence accordingly, including such conditions as it deems appropriate as respects the matters aforesaid.

(6) A holder of a waste licence shall give notice in writing to the Agency of any proposal to effect a change in the nature, extent or function of an activity or facility to which that licence relates if the effecting of that change could have consequences for the environment.

(7) A change referred to in subsection (6) shall not be effected unless either—

(a) by notice in writing served on the holder concerned, the Agency states that the activity concerned could, if the change were to be effected, continue to be carried on in conformity with this Act without a review of the licence concerned under subsection (1) having to be carried out first and a revised licence granted thereunder, or

(b) a review of the licence concerned under subsection (1) is carried out first and a revised licence is granted thereunder that permits the activity concerned to continue to be carried on in conformity with this Act after the change has been effected.

(8) As soon as may be after it has completed a review of a waste licence under this section, the Agency may grant to the holder thereof a waste licence (“a revised waste licence”) the terms and conditions of which are, in such respects as the Agency thinks appropriate, different from those of the first-mentioned licence and the revised waste licence shall have effect in lieu of the first-mentioned licence.

(9) Without prejudice to the generality of subsection (2)(b), the Minister may by regulations—

(a) prescribe specific circumstances in which the obligation under that provision to review a waste licence granted in respect of a specified class or classes of waste activity shall arise, the grounds for such review, the time within which such review shall be carried out, and relevant procedures to be followed, and
require the taking by the Agency of specified measures consequent upon the completion of such a review.

(10) Subsection (9) shall not be construed as enabling the Minister to exercise any power or control in relation to the performance in particular circumstances by the Agency or a local authority of a function conferred on it by or under this Act in relation to a waste recovery or disposal activity.”.

29.—The following section is inserted after section 48 of the Act of 1996:

"Revocation or suspension of waste licence in certain circumstances.

48A.—(1) The Agency may revoke, or suspend the operation of, a waste licence if it appears to the Agency that—

(a) the holder of the licence no longer satisfies the requirements specified in section 40(7) for his or her being regarded as a fit and proper person, and

(b) the circumstances occasioning his or her no longer satisfying those requirements are, in the opinion of the Agency, of such seriousness as to warrant the revocation of the licence or the suspension of its operation.

(2) References in this Act to the cessation of the activity to which a waste licence relates shall be construed as including references to such a cessation in consequence of the revocation of the licence.

(3) None of the requirements of section 46 or of any other provision of this Part shall apply to the exercise of the power under subsection (1) but where the Agency proposes to exercise the power it shall afford the holder of the licence, and any other person whom it considers ought to be afforded such an opportunity, an opportunity to make representations to it in relation to the matter.

(4) The cesser of a waste licence’s effect under this section shall in no way affect or diminish such conditions, requirements or obligations (being conditions, requirements or obligations that apply to, or fall on the holder of such licence by virtue of the licence) as may be specified by the Agency in exercising the powers under this section.

(5) The holder or former holder of the licence may appeal to the High Court against a revocation or suspension of a waste licence under this section and, on the hearing of the appeal, the High Court may confirm or annul the revocation or suspension or, in the case of a suspension, vary the period for which the suspension shall operate.”.
Operator of landfill facility to impose charge for disposals.

30.—The following section is inserted after section 53 of the Act of 1996:

53A.—(1) The operator of a landfill facility (other than an internal landfill facility), or such other facility for the disposal of waste as may be prescribed for the purposes of this subsection, shall impose charges in respect of the disposal of waste at the facility.

(2) Subject to subsection (3), different amounts of charges may be imposed under subsection (1) in respect of different disposals of waste at the facility concerned.

(3) The amount or amounts of charges imposed under subsection (1) shall be such as the operator of the facility concerned determines is likely to ensure that the result specified in subsection (4) is achieved.

(4) The result referred to in subsection (3) is that the aggregate of the amount of charges imposed by the operator, in relation to the facility concerned, during the relevant period will not be less than the amount that would meet the total of the following costs (irrespective of whether those costs, or any of them, have been or will be met from other financial measures available to the operator), namely—

(a) the costs incurred by the operator in the acquisition or development, or both (as the case may be), of the facility,

(b) the costs of operating the facility during the relevant period (including the costs of making any financial provision under section 53), and

(c) the estimated costs, during a period of not less than 30 years or such greater period as may be prescribed, of the closure, restoration, remediation or aftercare of the facility.

(5) The operator of the facility concerned shall prepare a statement in writing in respect of the determination he or she makes under subsection (3) in each year of the amounts of charges and that statement shall specify the method he or she has employed in making that determination and the assumptions and any relevant accounting principles he or she has used for the purpose of that method.

(6) A copy of a statement prepared under subsection (5) shall be furnished by the operator to the Agency not later than 1 month following the end of the year to which the statement relates.

(7) An operator who fails to comply with subsection (6) shall be guilty of an offence.
(8) The Agency shall not grant a licence or revised licence in respect of the disposal of waste at a facility referred to in subsection (1) unless it is satisfied that the proposed licensee or licensee will take or will continue to take steps to comply with this section.

(9) The Minister may by regulations make such incidental, consequential or supplementary provision as may appear to him or her to be necessary or proper to give full effect to any of the provisions of this section.

(10) In this section—

‘internal landfill facility’ means a landfill facility that is used solely for the disposal of waste produced by an activity (other than one involving the sorting, mixing or segregation of waste or the recovery of materials from waste) and is operated by or on behalf of the person carrying on that activity;

‘relevant period’ means such period as the Agency determines to be appropriate for the purposes of Article 10 of the Council Directive 99/31/EC in relation to the facility concerned and specifies in writing for the purposes of this section.’’.

31.—The following section is inserted after section 55 of the Act of 1996:

"Powers under section 55 also exercisable by Agency.

55A.—On and from the commencement of section 31 of the Protection of the Environment Act 2003, the powers under section 55 shall, in addition to being exercisable by a local authority, be exercisable by the Agency and, accordingly, for that purpose—

(a) the references in subsection (1)(a) of that section to a local authority shall be construed as including references to the Agency and that subsection, in its application to the Agency, shall have effect as if the words, 'as respects its functional area,' were omitted, and

(b) each subsequent reference in that section to a local authority shall, where the power under that subsection (1)(a) has been exercised by the Agency in relation to a particular matter, be construed, in relation to that matter, as a reference to the Agency.'’.

32.—The following section is inserted after section 56 of the Act of 1996:

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56A.—(1) On and from the commencement of section 32 of the Protection of the Environment Act 2003, the powers under section 56 of the Act of 1996 shall, in addition to being exercisable by a local authority, be exercisable by the Agency and, accordingly, for that purpose—

(a) the references in subsection (1) of that section to a local authority shall be construed as including references to the Agency and that subsection, in its application to the Agency, shall have effect as if the words ‘in its functional area’ were omitted, and

(b) each subsequent reference in that section to a local authority shall, where the power under that subsection (1) has been exercised by the Agency in relation to a particular matter, be construed, in relation to that matter, as a reference to the Agency.

(2) Nothing in this section shall be construed as imposing on a local authority or the Agency, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.’’.
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33.—Section 57(1) of the Act of 1996 is amended—

(a) by inserting after ‘‘cause environmental pollution’’, ‘‘or section 34 or 39(1) to be contravened’’, and

(b) by inserting in paragraph (a), after ‘‘such pollution’’, ‘‘or contravention’’.

34.—Section 58(1) of the Act of 1996 is amended by inserting in paragraph (a) after ‘‘environmental pollution’’, ‘‘or section 34 or 35 39(1) to be contravened’’.

35.—The following section is inserted after section 74 (inserted by the Waste Management (Amendment) Act 2001) of the Act of 1996:

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75.—(1) A local authority may make a charge in respect of the provision of any waste service by, or on behalf of, that authority.

(2) A charge made by a local authority under subsection (1) shall be of such an amount as the authority considers appropriate and shall be payable by and recoverable from the person for whom the service is provided, or, where the service is provided in respect of premises—
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(a) in case the premises are not owned by a local authority and comprise more than one dwelling, the owner of the premises, and

(b) in any other case, the occupier of the premises,

and different such charges may be made by such an authority in respect of persons, premises or services of different classes or descriptions or, where the service relates to the collection, recovery or disposal of waste (without prejudice to any other basis for making a charge) in respect of different quantities, volumes or types of waste.

(3) A local authority may, if it is satisfied that it is appropriate so to do on grounds of personal hardship, waive all or portion of a charge made by it under subsection (1).

(4) Where a charge (or portion thereof) is waived under subsection (3), the liability of a person to pay that charge (or portion thereof) and any obligation on the local authority by whom the waiver was made to collect the charge (or portion thereof) shall cease.

(5) An amount payable to a local authority on foot of a charge made under subsection (1) shall be payable either in advance or in such instalments payable on or by such dates as the authority shall determine, and, in default of being paid within two months of becoming payable, may be recovered by the authority as a simple contract debt in any court of competent jurisdiction.

(6) For the avoidance of doubt, subsection (5) authorises a local authority to determine that an amount referred to in that subsection shall be payable in advance of the particular occasion on which a waste service provided by it on a regular basis is provided to a person or in respect of premises and, in particular, that the amount so payable shall be the amount it determines should be payable in respect of each occasion of the service being provided by it.

(7) Where a sum is due to a local authority by a person in respect of a charge made under subsection (1) and, at the same time, another sum is due by that authority to that person, the former sum may be set off against the latter either, as may be appropriate, in whole or in part.

(8) Notwithstanding the provisions of any order made under any other enactment, the making of a charge in respect of the provision of a waste service and any exercise of the power of waiver under subsection (3) shall each be an executive function.
(9) In this section—

'dwelling' includes a part of any premises let as a separate dwelling, whether or not the person to whom it is let shares with any other person any accommodation, amenity or facility in connection therewith or any other portion of the premises;

'owner' means, in relation to a premises, a person, other than a mortgagee not in possession, who, whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if they were so let.”.

36.—The Schedule set out in Schedule 3 to this Act is substituted for the Third Schedule to the Act of 1996.

37.—The Schedule set out in Schedule 4 to this Act is substituted for the Fourth Schedule to the Act of 1996.

PART 4

Amendment of Act of 1997

38.—Section 19 of the Act of 1997 is amended—

(a) by substituting the following subsection for subsection (1):

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(1) Where any structure or other land, door, gate, window, tree, pole or post is in or is visible from a public place, a person who is not the owner, occupier or person in charge thereof shall not—

(a) exhibit or cause to be exhibited thereon any article or advertisement, or

(b) carry out or cause to be carried out any defacement thereof by writing or other marks,
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unless, in either case, the person is authorised in advance to do so in writing by such owner, occupier or person in charge or by or under any enactment, and, in addition, in the case of paragraph (a), the article or advertisement—

(i) if it relates to a meeting or an event, carries the name and address of the person who is promoting or arranging the meeting or event, and

(ii) in any other case, carries the name and address of the person on whose behalf it is exhibited.”,

(b) by substituting the following subsections for subsection (2):

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(2) A person shall not place advertising material on a mechanically propelled vehicle in a public place otherwise than by securing the material by some mechanical means to the body of the vehicle.
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(2A) For the purposes of subsection (2)—

‘body’, in relation to a mechanically propelled vehicle, does not include—

(a) any windscreen wiper, wiperblade, mirror or aerial, or

(b) any other part of the vehicle concerned that is not specifically designed or adapted for the purpose of securing to it the material concerned;

‘mechanical means’ does not include any means relying on or involving any pressure (of whatever amount or in whatever direction) exerted by—

(a) any windscreen wiper or wiperblade, or

(b) any other part of the vehicle that is not specifically designed or adapted for the purpose of employing pressure in order to secure the material concerned to the body of the vehicle;

‘place advertising material on a mechanically propelled vehicle’ does not include paint, emboss, inscribe or apply by any method of transfer letters, figures or images on or to the body of the vehicle or place in the interior of the vehicle any such material.”,

and

(c) by substituting the following subparagraph for subparagraph (ii) of subsection (7)(b):

“(ii) relates to a presidential election within the meaning of the Presidential Elections Act 1993, a general election or a bye-election, within the meaning, in each case, of the Electoral Act 1992, a local election or direct election, within the meaning, in each case, of the Local Government Act 2001, a referendum, within the meaning of the Referendum Act 1994, an election of representatives to the European Parliament under the European Parliament Elections Act 1997, or an election of members of Udarás na Gaeltachta under the Udarás na Gaeltachta Act 1979.”.

39.—The following section is substituted for section 21 of the Act of 1997:

“Power of local authorities to make bye-laws in relation to litter.

21.—(1) A local authority may make bye-laws for the purposes of preventing the creation of, and controlling, litter within its functional area.

(2) Without prejudice to the generality of subsection (1), bye-laws made under that subsection may make provision for all or any of the following matters:

(a) the prohibition or regulation of the distribution to the public of advertising
material or specified categories of advertising material,

(b) the regulation of the movement, location, use and operation of mobile outlets so as to secure the prevention or removal of litter at or in the vicinity of such outlets,

(c) requiring occupiers of specified premises or classes of premises to take such measures as are deemed necessary by the local authority to prevent or limit the creation of litter at or in the vicinity of such premises and provide for its removal,

(d) requiring the promoters or organisers of events at which large numbers of persons are likely to be present to take measures to prevent or limit the creation of litter at the events and provide for its removal,

(e) requiring the owners or managers of specified businesses or classes of business to wash the public area outside of premises in which their business is carried on,

(f) the regulation of the provision and use of supermarket trolleys, including the imposition of duties on the owners or managers of retail outlets in cases where supermarket trolleys from those outlets are abandoned.

(3) A bye-law under subsection (1) shall not apply to—

(a) the distribution of advertising material by means of a direct delivery to a place having an address, or

(b) the distribution of advertising material relating to a presidential election within the meaning of the Presidential Elections Act 1993, a general election or a bye-election, within the meaning, in each case, of the Electoral Act 1992, a local election or direct election within the meaning, in each case, of the Local Government Act 2001, a referendum, within the meaning of the Referendum Act 1994, an election of representatives to the European Parliament under the European Parliament Elections Act 1997, or an election of members of Udarás na Gaeltachta under the Udarás na Gaeltachta Act 1979.

(4) A bye-law under subsection (1) shall be made in accordance with, and shall be construed for the purposes of its enforcement as if it were made under, Part 19 of the Local Government Act 2001.

(5) Bye-laws made under subsection (1) may contain such incidental, supplementary and consequential
provisions as appear to the local authority making them to be necessary.’’

40.—The following section is substituted for section 24 of the Act of 1997:

"Punishment for offences.

24.—(1) A person guilty of an offence under this Act shall be liable—

(a) on conviction on indictment, to a fine not exceeding €130,000, or

(b) on summary conviction, to a fine not exceeding €3,000.

(2) If the contravention in respect of which a person is convicted of an offence under this Act is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence he or she shall be liable—

(a) on conviction on indictment, to a fine not exceeding €10,000, or

(b) on summary conviction, to a fine not exceeding €600.’’

PART 5

Miscellaneous

41.—(1) Any regulation, order or bye-law that—

(a) has been made under a provision of the Act of 1992, the Act of 1996 or the Act of 1997 that has been amended, or has been repealed and re-enacted with or without modifications, by a provision of this Act, and

(b) is in force immediately before the commencement of that provision of this Act,

shall, subject to subsection (2) of this section, continue in force as if made under that provision as so amended or re-enacted and may be amended or revoked accordingly.

(2) Subsection (1) of this section does not apply to the extent that the regulation, order or bye-law concerned is inconsistent with the provision of the relevant enactment as so amended or re-enacted.

(3) References in this section to an order do not include references to an order mentioned in section 82(9) of Part IV (inserted by section 12 of this Act) of the Act of 1992 (which section 82(9) makes separate provision for the continuance in force of such an order).

42.—Section 5 of the Air Pollution Act 1987 is amended by substituting the following subsection for subsection (4A) (inserted by the Act of 1992):
Amendment of section 34 of the Planning and Development Act 2000.

Section 15.

43.—Section 34 (2) of the Planning and Development Act 2000, is amended, in paragraph (c), by substituting “Subject to section 99F of the Environmental Protection Agency Act 1992,” for “Subject to section 98 (as amended by section 256 of this Act) of the Environmental Protection Agency Act 1992,”.

SCHEDULE 1

New First Schedule to Act of 1992

FIRST SCHEDULE

Activities to which Part IV Applies

Interpretation
If 2 or more activities falling within the same paragraph under a particular heading of this Schedule are carried on in the same installation by the same person, then, for the purpose of any threshold specified in that paragraph, the capacities of those activities shall be aggregated.

1 Minerals and Other Materials

1.1 The production of asbestos.

1.2 The extraction, production and processing of raw asbestos, not included in paragraph 1.1.1.

1.2 The extraction of aluminium oxide from an ore, not included in paragraph 5.13.

1.3 The extraction and processing (including size reduction, grading and heating) of minerals within the meaning of the Minerals Development Acts 1940 to 1999, where an activity involves—

(a) a metalliferous operation, or

(b) any other operation where either the level of extracted or processed minerals is greater than 200,000 tonnes per annum or the total operational yield is greater than 1,000,000 tonnes,

and storage of related mineral waste.

1.4 The extraction of peat in the course of business which involves an area exceeding 50 hectares.

2 Energy

2.1 The operation of combustion installations with a rated thermal input equal to or greater than 50 MW.
3 Metals

3.1.1 The production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tonnes per hour.

3.1.2 The initial melting or production of iron or steel, not included in paragraph 3.1.1.

3.2.1 The processing of ferrous metals:

(a) hot-rolling mills with a capacity exceeding 20 tonnes of crude steel per hour,

(b) smitheries with hammers the energy of which exceeds 50 kilojoule per hammer, where the calorific power used exceeds 20 MW,

(c) application of protective fused metal coats with an input exceeding 2 tonnes of crude steel per hour.

3.2.2 The processing of iron and steel in forges, drawing plants and rolling mills where the production area exceeds 500 square metres, not included in paragraph 3.2.1.

3.3.1 The operation of ferrous metal foundries with a production capacity exceeding 20 tonnes per day.

3.3.2 The production, recovery, processing or use of ferrous metals in foundries having melting installations with a total capacity exceeding 5 tonnes, not included in paragraph 3.3.1.

3.4.1 The—

(a) production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes,

(b) smelting, including the alloyage, of non-ferrous metals, including recovered products, (refining, foundry casting, etc.) with a melting capacity exceeding 4 tonnes per day for lead and cadmium or 20 tonnes per day for all other metals.

3.4.2 The production, recovery or processing of non-ferrous metals, their compounds or other alloys including antimony, arsenic, beryllium, chromium, lead, magnesium, manganese, phosphorus, selenium, cadmium or mercury, by thermal, chemical or electrolytic means in installations with a batch capacity exceeding 0.5 tonnes, not included in paragraph 3.4.1.

3.5 The reaction of aluminium or its alloys with chlorine or its compounds, not included in paragraph 5.13.

3.6.1 The roasting or sintering of metal ore (including sulphide ore).

3.6.2 The calcining of metallic ores in plants with a capacity exceeding 1,000 tonnes per year.
3.7 Swaging by explosives where the production area exceeds 100 square metres.

3.8 The pressing, drawing and stamping of large castings where the production area exceeds 500 square metres.

3.9 Boilermaking and the manufacture of reservoirs, tanks and other sheet metal containers where the production area exceeds 500 square metres.

4 Mineral Fibres and Glass

4.1 The processing of asbestos, and the manufacture and processing of asbestos-based products.

4.2.1 The melting of mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tonnes per day.

4.2.2 The manufacture of glass fibre or mineral fibre, not included in paragraph 4.2.1 or 4.3.

4.3 The manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day or 5,000 tonnes per year.

4.4 The production of industrial diamonds.

5 Chemicals

Production, for the purposes of the activities mentioned in paragraph 5.12 to 5.17, means the production on an industrial scale by chemical processing of substances or groups of substances mentioned in any of those paragraphs.

5.1 The manufacture of chemicals in an integrated chemical installation, not included in paragraphs 5.12 to 5.17.

5.2 The manufacture of olefins and their derivatives or of monomers and polymers including styrene and vinyl chloride, not included in paragraphs 5.12 to 5.17.

5.3 The manufacture, by way of chemical reaction processes, of organic or organo-metallic chemical products other than those specified in paragraph 5.2 and not included in paragraphs 5.12 to 5.17.

5.4 The manufacture of inorganic chemicals, not included in paragraphs 5.12 to 5.17.

5.5 The manufacture of artificial fertilisers, not included in paragraphs 5.12 to 5.17.

5.6 The manufacture of pesticides, pharmaceutical or veterinary products and their intermediates, not included in paragraphs 5.12 to 5.17.

5.7 The manufacture of paints, varnishes, resins, inks, dyes, pigments or elastomers where the production capacity exceeds 1,000 litres per week, not included in paragraphs 5.12 to 5.17.

5.8 The formulation of pesticides, not included in paragraphs 5.12 to 5.17.
5.9 The chemical manufacture of glues, bonding agents and adhesives, not included in paragraphs 5.12 to 5.17.

5.10 The manufacture of vitamins involving the use of heavy metals, not included in paragraphs 5.12 to 5.17.

5.11 The storage, in quantities exceeding the values shown, of any one or more of the following chemicals (other than as part of any other activity) and not included in paragraphs 5.12 to 5.17—

- methyl acrylate (20 tonnes);
- acrylonitrile (20 tonnes);
- toluene di-isocyanate (20 tonnes);
- anhydrous ammonia (100 tonnes);
- anhydrous hydrogen fluoride (1 tonne).

5.12 The production of basic organic chemicals, such as:

(a) simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic),

(b) oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins,

(c) sulphurous hydrocarbons,

(d) nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates,

(e) phosphorus-containing hydrocarbons,

(f) halogenic hydrocarbons,

(g) organometallic compounds,

(h) basic plastic materials (polymers, synthetic fibres and cellulose-based fibres),

(i) synthetic rubbers,

(j) dyes and pigments,

(k) surface-active agents and surfactants.

5.13 The production of basic inorganic chemicals, such as:

(a) gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride,

(b) acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids,

(c) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide,

(d) salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate,
silver nitrate, non-metals, metal oxides or other inorganic compounds such as calcium carbide, silicon, silicon carbide.

5.14 The production of phosphorous-based, nitrogen-based or potassium-based fertilisers (simple or compound fertilisers).

5.15 The production of basic plant health products and of biocides.

5.16 The use of a chemical or biological process for the production of basic pharmaceutical products.

5.17 The production of explosives.

6 Intensive Agriculture

6.1 The rearing of poultry in installations, whether within the same complex or within 100 metres of the same complex, where the capacity exceeds 40,000 places.

6.2 The rearing of pigs in an installation, whether within the same complex or within 100 metres of the same complex, where the capacity exceeds—

- 650 places for sows in a breeding unit, or
- 275 places for sows in an integrated unit, or
- 2,000 places for production pigs.

In this paragraph—

‘breeding unit’ means a piggery in which pigs are bred and reared up to 30kg in weight;

‘integrated unit’ means a piggery in which pigs are bred and reared to slaughter;

‘production pig’ means any pig over 30kg in weight which is being fattened for slaughter;

‘sow’ means a female pig after its first farrowing.

7 Food and Drink

7.1 The manufacture of vegetable and animal oils and fats where the capacity for processing raw materials exceeds 40 tonnes per day, not included in paragraph 7.8.

7.2.1 The treatment and processing of milk, the quantity of milk received being greater than 200 tonnes per day (average value on a yearly basis).

7.2.2 The manufacture of dairy products where the processing capacity exceeds 50 million gallons of milk equivalent per year, not included in paragraph 7.2.1.
7.3 Commercial brewing, distilling or malting in installations where the production capacity exceeds 100,000 tonnes per year, not included in paragraph 7.8.

7.4.1 The operation of slaughterhouses with a carcass production capacity greater than 50 tonnes per day.

7.4.2 The slaughter of animals in installations where the daily capacity exceeds 1,500 units and where units have the following equivalents—

1 sheep = 1 unit,

1 pig = 2 units,

1 head of cattle = 5 units,

and not included in paragraph 7.4.1.

7.5 The manufacture of fish-meal and fish-oil, not included in paragraph 7.8.

7.6 The manufacture of sugar, not included in paragraph 7.8.

7.7.1 The disposal or recycling of animal carcasses and animal waste with a treatment capacity exceeding 10 tonnes per day.

7.7.2 The processing (including rendering) of animal carcasses and by-products, not included in paragraph 7.7.1.

7.8 Treatments or processes for the purposes of the production of food products from—

(a) animal raw materials (other than milk) with a finished product production capacity greater than 75 tonnes per day,

(b) vegetable raw materials with a finished product production capacity greater than 300 tonnes per day (average value on a quarterly basis).

8 Wood, Paper, Textiles and Leather

8.1 The production of paper pulp, paper or board (including fibre-board, particle-board and plywood) with a production capacity exceeding 20 tonnes per day.

8.2 The production of pulp from timber or other fibrous materials.

8.3 The treatment or protection of wood, involving the use of preservatives, with a capacity exceeding 10 tonnes of wood per day.

8.4 The manufacture of synthetic fibres not included in paragraph 5.12.

8.5.1 The pre-treatment (operations such as washing, bleaching, mercerization) or dyeing of fibres or textiles where the treatment capacity exceeds 10 tonnes per day.
8.5.2 The dyeing, treatment or finishing (including moth-proofing and fireproofing) of fibres or textiles (including carpet) where the capacity exceeds 1 tonne per day of fibre, yarn or textile material, not included in paragraph 8.5.1.

8.6.1 The tanning of hides and skins where the treatment capacity exceeds 12 tonnes of finished products per day.

8.6.2 The fell-mongering of hides and tanning of leather in installations where the capacity exceeds 100 skins per day, not included in paragraph 8.6.1.

9 Fossil Fuels

9.1 The extraction, other than offshore extraction, of petroleum, natural gas, coal or bituminous shale.

9.2 The handling or storage of crude petroleum, not included in paragraph 9.3.1 or 9.3.2.

9.3.1 The operation of mineral oil and gas refineries.

9.3.2 The refining of petroleum or gas, not included in paragraph 9.3.1.

9.4.1 The operation of coke ovens.

9.4.2 The operation of coal gasification and liquefaction plants.

9.4.3 The production of carbon (hard-burnt coal) or electrographite by means of incineration or graphitization.

9.4.4 The pyrolysis, carbonisation, gasification, liquefaction, dry distillation, partial oxidation or heat treatment of coal, lignite, oil or bituminous shale, other carbonaceous materials or mixtures of any of these in installations with a processing capacity exceeding 500 tonnes per day, not included in paragraph 9.4.1, 9.4.2 or 9.4.3.

10 Cement

10.1 The production of cement.

11 Waste

11.1 The recovery or disposal of waste in a facility, within the meaning of the Act of 1996, which facility is connected or associated with another activity specified in this Schedule in respect of which a licence or revised licence under Part IV is in force or in respect of which a licence under the said Part is or will be required.

12 Surface Coatings

12.1 Operations involving coating with organo-tin compounds, not included in paragraph 12.2.1 or 12.2.2.
12.2.1 The surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with a consumption capacity of more than 150 kg per hour or more than 200 tonnes per year.

12.2.2 The manufacture or use of coating materials in processes with a capacity to make or use at least 10 tonnes per year of organic solvents, and powder coating manufacture with a capacity to produce at least 50 tonnes per year, not included in paragraph 12.2.1.

12.3 The surface treatment of metals and plastic materials using an electrolytic or chemical process where the volume of the treatment vats exceeds 30 m³.

13 Other Activities

13.1 The testing of engines, turbines or reactors where the floor area exceeds 500 square metres.

13.2 The manufacture of integrated circuits and printed circuit boards.

13.3 The production of lime in a kiln not included in paragraph 10.1.

13.4.1 The manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day, or with a kiln capacity exceeding 4 m³ and a setting density per kiln exceeding 300 kg/m³.

13.4.2 The manufacture of coarse ceramics including refractory bricks, stoneware pipes, facing and floor bricks and roof tiles, not included in paragraph 13.4.1.

SCHEDULE 2

Repeals and Revocations

PART 1

Enactments Repealed

<table>
<thead>
<tr>
<th>Number and Year</th>
<th>Short Title</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td>35 No. 10 of 1996</td>
<td>Waste Management Act 1996</td>
<td>Section 64; Section 65(1); Subsections (2) and (4) of section 68.</td>
</tr>
<tr>
<td>No. 30 of 2000</td>
<td>Planning and Development Act 2000</td>
<td>Section 256.</td>
</tr>
</tbody>
</table>

Section 3.
PART 2
Statutory Instruments Revoked

<table>
<thead>
<tr>
<th>S.I. Number and Year (1)</th>
<th>Citation (2)</th>
<th>Extent of Revocation (3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.I. No. 84 of 1994</td>
<td>European Communities (Environmental Impact Assessment) (Amendment) Regulations 1994</td>
<td>Part III.</td>
</tr>
</tbody>
</table>

Section 36.

SCHEDULE 3

New Third Schedule to Act of 1996

“THIRD SCHEDULE
Waste Disposal Activities

1. Deposit on, in or under land (including landfill).

2. Land treatment, including biodegradation of liquid or sludge discards in soils. 15

3. Deep injection of the soil, including injection of pumpable discards into wells, salt domes or naturally occurring repositories.

4. Surface impoundment, including placement of liquid or sludge discards into pits, ponds or lagoons. 20

5. Specially engineered landfill, including placement into lined discrete cells which are capped and isolated from one another and the environment.

6. Biological treatment not referred to elsewhere in this Schedule which results in final compounds or mixtures which are disposed of by means of any activity referred to in paragraphs 1 to 5 or paragraphs 7 to 10 of this Schedule. 25

7. Physico-chemical treatment not referred to elsewhere in this Schedule which results in final compounds or mixtures which are disposed of by means of any activity referred to in paragraphs 1 to 5 or paragraphs 8 to 10 of this Schedule (including evaporation, drying and calcination). 30

8. Incineration on land or at sea.

9. Permanent storage, including emplacement of containers in a mine. 35

10. Release of waste into a water body (including a seabed insertion).

11. Blending or mixture prior to submission to any activity referred to in a preceding paragraph of this Schedule.

12. Repackaging prior to submission to any activity referred to in a preceding paragraph of this Schedule. 40
13. Storage prior to submission to any activity referred to in a preceding paragraph of this Schedule, other than temporary storage, pending collection, on the premises where the waste concerned is produced.”.

SCHEDULE 4

New Fourth Schedule to Act of 1996

“FOURTH SCHEDULE

Waste Recovery Activities

1. Solvent reclamation or regeneration.

2. Recycling or reclamation of organic substances which are not used as solvents (including composting and other biological processes).

3. Recycling or reclamation of metals and metal compounds.

4. Recycling or reclamation of other inorganic materials.

5. Regeneration of acids or bases.

6. Recovery of components used for pollution abatement.

7. Recovery of components from catalysts.

8. Oil refining or other re-uses of oil.

9. Use of any waste principally as a fuel or other means to generate energy.

10. The treatment of any waste on land with a consequential benefit for an agricultural activity or ecological system.

11. Use of waste obtained from any activity referred to in a preceding paragraph of this Schedule.

12. Exchange of waste for submission to any activity referred to in a preceding paragraph of this Schedule.

13. Storage of waste intended for submission to any activity referred to in a preceding paragraph of this Schedule, other than temporary storage, pending collection, on the premises where such waste is produced.”.