

EU EMISSIONS TRADING SCHEME CHARGING SCHEME NORTHERN IRELAND

A Consultation Paper



November 2009

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Consultation on the draft Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010, the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 and the Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010

Introduction

1.1 The Department of the Environment (“the Department”) is consulting on the Regulations necessary to provide for a charging scheme to enable the Northern Ireland Environment Agency to recover the costs of regulating the EU Emissions Trading Scheme (EU ETS) as per the requirements set out in the Greenhouse Gas Emissions Trading Scheme Regulations 2005. The draft Charging Scheme is also included as part of this consultation.

The need for regulations

1.2 The Greenhouse Gas Emissions Trading Scheme Regulations 2005 (“the 2005 Regulations”) provides the framework for a UK wide greenhouse gas emissions trading scheme for the purpose of implementing Directive 2003/87/EC of the European Parliament and the Council establishing a scheme for greenhouse gas emission trading within the Community and amending Council Directive 96/61/EC (the “Emissions Trading Directive”).

1.3 In Northern Ireland the regulation of the EU ETS is the responsibility of the Northern Ireland Environment Agency and the chief inspector, as the regulator for Northern Ireland, may charge for the costs of regulating the scheme under regulation 18 and Schedule 5 of the 2005 Regulations.

1.4 Regulation 18(3) of the 2005 Regulations provides for the provisions of Schedule 5 (fees and charges) to be superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995 (as amended by paragraph (2) of Schedule 6 to the 2005 Regulations) in respect of installations (other than offshore installations) situated in England, Wales or Scotland. The 1995 Act does not extend to Northern Ireland and no alternative provision was made in the 2005 Regulations for Schedule 5 to be superseded by a Northern Ireland charging scheme. As a consequence the Northern Ireland Environment Agency is

restricted to charging the fees and charges set down in Table 2 of paragraph 4 of Schedule 5 which are at 2006/2007 values and it is, therefore, unable to recover the full costs of regulating the scheme.

1.5 In order to rectify this anomaly and bring Northern Ireland into line with the rest of the United Kingdom, the Environment (Northern Ireland) Order 2002, which authorises the Department to make charging schemes for certain listed purposes, needs to be amended so as to include greenhouse gas emissions permits and associated operator registry costs in the list of purposes for which a charging scheme may be made. In addition regulation 18(3) and (4) of the 2005 Regulations require amendment.

Equality issues

1.6 Under Section 75 of the Northern Ireland Act 1998, public authorities have a statutory duty to promote equality of opportunity. An equality screening of the proposed Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010, the Greenhouse Gas Emissions Trading Scheme Regulations (Northern Ireland) 2010 and the draft Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010 was undertaken, which concluded that there is no impact on equality of opportunity on any of the groups specified in section 75. A copy of the screening paper is attached at Annex E.

1.7 The Equality Commission will receive a copy of this consultation document as part of the consultation exercise. We will take into account any comments that the Commission makes.

Human Rights issues

1.8 The Human Rights Act 1998 implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. Since the implementation of the Human Rights Act 1998, all legislation must be checked to ensure compliance with the European Convention rights.

1.9 A Human Rights screening of the proposed Amendment Regulations, the Charging Scheme Regulations and the draft scheme was undertaken, which concluded that they are compatible with the Human Rights Act but any views you have on

this would be welcome. A copy of the screening paper is attached at Annex F.

1.10 The Human Rights Commission will receive a copy of the consultation document as part of this consultation. We will take into account any comments that the Commission makes.

Rural Proofing

1.11 We consider that there are no negative impacts on rural productivity or the provision of services to the rural community as a result of these proposals.

Consultees

1.12 This consultation paper is directed, in particular, at businesses and organisations that require greenhouse gas emissions permits to carry out the activities specified in Schedule 1 to the 2005 Regulations.

1.13 Hard copies of the consultation paper are available from the address at Annex G. The consultation paper is also available on our website at http://www.doeni.gov.uk/climate_change.htm.

Consultation

Who will be affected?

2.1 The draft Northern Ireland Regulations impact on a small percentage of businesses, specifically those that carry out the activities specified in Schedule 1 to the 2005 Regulations, as set out below, and which hold a greenhouse gas emissions permit. There are currently 24 such installations in Northern Ireland, covering a range of activities including power stations, cement factories, industrial boilers or combined heat and power (CHP) plants and hospitals.

<i>Activities</i>	<i>Specified emissions</i>
1. Energy Activities	
1.1 Activities of combustion installations with a rated thermal input exceeding 20 megawatts (excluding hazardous or municipal waste installations).	Carbon dioxide
1.2 Activities of mineral oil refineries.	Carbon dioxide
1.3 Activities of coke ovens.	Carbon dioxide
2. Production and processing of ferrous metals	
2.1 Activities of metal ore (including sulphide ore) roasting and sintering installations.	Carbon Dioxide
2.2 Activities of installations for the production of pig iron or steel (primary or secondary fusion), including continuous casting, with a capacity of more than 2.5 tonnes per hour.	Carbon dioxide
3. Mineral Industries	
3.1 Activities of installations for the production of cement clinker in rotary kilns with a production capacity of more than 500 tonnes per day.	Carbon Dioxide

<p>3.2 Activities of installations for the production of lime in rotary kilns or other furnaces with a production capacity of more than 50 tonnes per day.</p>	Carbon dioxide
<p>3.3 Activities of installations for the manufacture of glass including glass fibre where the melting capacity of the plant is more than 20 tonnes per day.</p>	Carbon dioxide
<p>3.4 Activities of installations for the manufacture of ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns where-</p> <p>(i) the kiln production capacity is more than 75 tonnes per day; and</p> <p>(ii) the kiln capacity is more than 4m³ and the setting density is more than 300 kg/m³.</p>	Carbon dioxide
<p>4. Other activities</p>	
<p>4.1 Activities of industrial plants for the production of pulp from timber or other fibrous materials.</p>	Carbon dioxide
<p>4.2 Activities of industrial plants for the production of paper and board with a production capacity of more than 20 tonnes per day.</p>	Carbon dioxide

2.2 A list of those organisations and individuals to whom this consultation document has been sent is at Annex I and includes, amongst others:

- local councils
- government departments
- other government organisations
- all statutory consultees

2.3 Please inform us, using the contact details in Annex G, if you know of others who may wish to be involved in this consultation process and should receive a copy of this document.

The draft legislation

2.4 A copy of the draft Environment (Northern Ireland) Order 2002 (Amendment) Regulations 2010 is attached at Annex B

2.5 The proposed minor amendments to the 2002 Order will enable the Department by regulation to provide for a Northern Ireland Charging Scheme for the cost of regulating the EU Emissions Trading Scheme. We would welcome any comments you may have on these amendments.

2.6 A copy of the draft Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 is attached at Annex C.

2.7 These regulations will provide the framework for a charging scheme to enable the Northern Ireland Environment Agency to recover the costs of regulating the EU Emissions Trading Scheme. We would welcome your comments on any of the proposed provisions.

2.8 A copy of the draft Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010 is attached at Annex D. The following charges are set out in the draft scheme:

- Application for a permit
- Subsistence of a permit
- Transfer of a permit
- Variation of a permit
- Surrender or revocation of a permit
- Application for an allocation from the new entrant reserve
- Retention of an allocation

The charges

2.9 Table 1 below sets out the current charges in Northern Ireland and the equivalent charges levied by the Environment Agency (EA) and the Scottish Environment Protection Agency (SEPA) in 2009 – 2010, which are the same as the proposed

charges for Northern Ireland starting from April 2010. In the table, band A covers installations where anticipated emissions are less than 50 kilotonnes per year, band B covers installations with emissions between 50 and 500 kilotonnes per year and band C covers installations with emissions of more than 500 kilotonnes per year.

TABLE 1

Charge category	Current NI charge (£)	GB charge for 2009/10 and proposed NI charge from 2010/11 (£)	% change
New application			
Band A	1230	1324	7.6
Band B	2300	2477	7.7
Band C	5490	5912	7.7
Subsistence (per year)			
Band A	1988	2521	26.8
Band B	2598	3285	26.4
Band C	3208	4038	25.9
Variation	240	421	75.4
Transfer	240	421	75.4
Surrender or revocation of permit	620	668	7.7
New entrant reserve application	1030	1110	7.8
Retention of an allocation	115 times number of hours specified on notice	115 times number of hours specified on notice	0

2.10 Analysis of staff costs and regulatory effort indicates that the charges in Northern Ireland need to be brought into line with the equivalent charges for other UK regulators carrying out identical roles to the Northern Ireland Environment Agency. The proposed charges for 2010/11 in Northern Ireland are the same as 2009/10

charges in GB, since these charges are expected to approach full cost recovery and the GB charges for 2010/11 have not been finalised.

2.11 The annual subsistence charges set out in Schedule 5 to the 2005 Regulations vary according to the total number of UK participants – as the number of participants increases the applicable subsistence charge for a particular year reduces. The charging schemes which have since been developed by the other UK environment agencies no longer include any link between subsistence and number of participants.

2.12 The number of UK participants nevertheless has increased as operators who had opted out in phase 1 have rejoined the scheme and as a result subsistence charges in Northern Ireland have fallen significantly, as illustrated in table 2. The first five rows of the table show the relevant number of UK installations and the corresponding subsistence fee which had to be applied in Northern Ireland. The sixth row shows the fee which would have been applied in 2006/7 and subsequent years had the number of installations remained at 600-699. The proposed increase in subsistence fees should be viewed in this context – it needs to address the erosion of fees due to the changing number of UK participants as well as increases in NIEA’s costs.

TABLE 2: Subsistence charges applicable in Northern Ireland derived from Schedule 5 to the 2005 Regulations.

Year	Number of UK installations	Applicable subsistence charge per installation in Schedule 5 (£)		
		<50 kilotonnes per year	50-500 kilotonnes per year	>500 kilotonnes per year
2005/6	600-699	2110	2820	3520
2006/7	700-799	2190	2850	3520
2007/8	700-799	2190	2850	3520
2008/9	900-999	1988	2598	3208
2009/10	900-999	1988	2598	3208
2006/7 and later	600-699	2341	3051	3751

2.13 The EA carries out the role of registry administrator on behalf of all UK regulators and currently just over £1200 taken

from the annual subsistence fee is reallocated to them for carrying out this function. Similarly some £400 per application is paid to EA for managing the queue for new entrant reserve applications nationally.

2.14 The proposed increase in variation and transfer fees from £240 to £421 is in line with other UK environment agencies and is required to reflect regulatory effort in processing variations and transfers. Variation and transfer charges only apply where a change to a permit is required or where ownership is transferred and are infrequent for an individual operator.

ANNEX A

REGULATORY IMPACT ASSESSMENT

PARTIAL REGULATORY IMPACT ASSESSMENT FOR THE ENVIRONMENT (NORTHERN IRELAND) ORDER 2002 (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010 THE GREENHOUSE GAS EMISSIONS TRADING SCHEME CHARGING SCHEME REGULATIONS (NORTHERN IRELAND) 2010 AND THE GREENHOUSE GAS EMISSIONS CHARGING SCHEME 2010.

1. Title of proposal

1.1 This Partial Regulatory Impact Assessment (RIA) concerns the implementation of the Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010, the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 and the Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010.

1.2 The proposed amendments to the Environment (Northern Ireland) Order 2002 will provide the legislative means to make enabling regulations for a charging scheme to recover the costs of regulating the EU Emissions Trading Scheme in Northern Ireland.

1.3 The Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 provide the framework for the Northern Ireland Environment Agency to make a charging scheme to recover the costs of carrying out its functions under the Greenhouse Gas Emissions Trading Scheme Regulations 2005.

1.4 The proposed charges are set out in the draft Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010.

1.5 Both sets of regulations and the Scheme apply to Northern Ireland only.

2. Purpose and intended effect of measure

(i) Background

2.1 The EU Emissions Trading Directive established a scheme for greenhouse gas emissions allowance trading within the Community. Its aim is to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner. The Directive was transposed into UK law through the Greenhouse Gas Emissions Trading Scheme Regulations 2003 and the Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2004 which were later consolidated and replaced by the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (the 2005 Regulations). A Regulatory Impact Assessment was carried out on the 2005 Regulations at that time.

2.2 The 2005 Regulations inserted a new section 41A to the Environment Act 1995 which introduced a power for regulators to develop charging schemes to supersede the fees and subsistence charges set out in Schedule 5 to the 2005 Regulations. The Environment Act 1995 does not extend to Northern Ireland and no alternative provision was made in the 2005 Regulations for Schedule 5 to be superseded by a Northern Ireland charging scheme. The Northern Ireland Environment Agency (NIEA) is therefore restricted to charging those fees and charges set out in Schedule 5 to the 2005 Regulations, which remain at 2006/2007 levels.

2.3 The annual subsistence charges set out in Schedule 5 to the 2005 Regulations vary according to the total number of UK participants – as the number of participants increases the applicable subsistence charge reduces. The other UK environment agencies have developed charging schemes which do not include any link between subsistence and number of participants. The number of UK participants has increased as operators who had opted out in phase 1 have rejoined the scheme. As a result subsistence charges in Northern Ireland have fallen, leading to under-recovery of costs.

2.4 In order to provide the Department with the legislative means to make its own charging scheme the Environment (Northern Ireland) Order 2002 needs to be amended, together with Regulation 18(3) and (4) of the 2005 Regulations.

(ii) Risk Assessment

2.5 The amendments to the Environment (Northern Ireland) Order 2002 and Regulation 18 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 are necessary for the effective regulation of the EU Emissions Trading Scheme (EU ETS). Without the amendments the Department would be unable to comply with the financial objective of full cost recovery. Implementing the proposed changes would decouple the Northern Ireland charges from the linkage with the total number of UK participants in the scheme, would implement appropriate inflationary increases to the current charges and ultimately deliver the proper costs for the regulation of the scheme.

3. The Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010

3.1 Regulation 2(2) provides a new paragraph 9A to be inserted into Schedule 1 of the Environment (Northern Ireland) Order 2002. The purpose of new paragraph 9A is to provide for the inclusion of fees and charges related to greenhouse gas emissions permits and operator registry costs in the list of purposes for which the Department is authorised to make a charging scheme.

3.2 New paragraph 9A also provides that any future changes to operator registry charges by the Environment Agency are to be included in the charging scheme. It also provides that any such operator charges received by the enforcing authority are to be passed to the Environment Agency.

3.3 The Amendment Regulations also seek to amend Regulation 18(3) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 by the insertion of a new sub-paragraph (aa) to provide that the fees and charges set out in Schedule 5 of the 2005 Regulations may be superseded by a charging scheme made in respect of installations (other than offshore installations) situated in Northern Ireland, under Article 4 of the Environment (Northern Ireland) Order 2002.

3.4 A minor consequential amendment is also made to Regulation 18 (4).

4. The Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010

4.1 Regulation 2 contains definitions.

4.2 Regulation 3 provides that under these regulations the functions of the enforcing authority are those of the chief inspector.

4.3 Regulation 4 provides that the Department may make, and from time to time revise, a scheme prescribing the following fees and charges and that any such fees and charges shall be payable to the enforcing authority:

- Fees payable in respect of an application for the grant of a greenhouse gas emissions permit.
- Fees payable in respect of an application for the variation, transfer and surrender of such a permit.
- Fees payable in respect of the revocation of such a permit.
- Charges payable in respect of the subsistence of such a permit.
- Charges in respect of an application for the allocation of allowances to an operator.
- Charges in respect of an application for the retention of allowances by an operator ceasing to carry on an activity to which they relate.
- Charges in respect of the subsistence of an account required to be held in the trading scheme registry by an operator.

4.4 The scheme will also prescribe the times and manner in which payments required by the scheme are made, subject to the requirements set out in the 2005 Regulations.

5. Options

5.1 Four options have been considered:

1. Do nothing;
2. Adjust the charges set out in Schedule 5 to the 2005 Regulations;

3. Amend the relevant legislation, make regulations and increase all charge categories in line with GB regulators to achieve full cost recovery in the first year of the scheme.
4. Amend the relevant legislation, make regulations and stage increases in subsistence charges over the first 2 years of the charging scheme. This would be done by increasing subsistence charges to offset the erosion in charges due to increasing numbers of UK participants, with a further increase the following year to effect full cost recovery. All other charge categories would be updated in the first year.

5.2 Option 1 would lead to continued under-recovery of costs, which would worsen further as the number of UK participants increased.

5.3 Option 2 would require substantial amendments to Schedule 5 to remove the linkage with the total number of UK participants. Any future changes to charges would require further amendments to the national Regulations. The purpose of Schedule 5 was to set interim charges until such time as charging schemes could be established for individual regulators. For these reasons, continued reliance on Schedule 5 to the 2005 Regulations is undesirable.

5.4 Option 3 is the preferred option since it would lead to recovery of regulatory costs in Northern Ireland. It would also move towards a level playing field for EUETS participants across the UK. This option will also enable NIEA to update fees and charges by way of an amended scheme rather than requiring an amendment of the regulations. This option forms the basis of the consultation paper.

5.5 Option 4 would establish a charging scheme for Northern Ireland and would, in the first year of the scheme, increase subsistence charges to offset the erosion which has occurred due to increasing numbers of UK participants, while bringing other charges into line with the rest of the UK. It would not immediately allow for any inflationary increases in subsistence costs and hence would not move towards full cost recovery until the second year of the scheme. This option would not initially meet the objective of

full cost recovery. Based on the assessment of costs in section 7, the Department does not propose to adopt this option.

6. Business Sectors Affected

6.1 Northern Ireland currently has 24 installations permitted under the EU ETS for carrying out the activities specified in Schedule 1 to the 2005 regulations. The installations affected are as follows:

Sector	Number of installations
Large electricity producers	3
Cement manufacture	2
Glass manufacture	1
Pulp and paper	1
Ceramics	1
Combustion installations >20MW	
Food and drink manufacture	7
Other industrial	6
Hospitals	3
Total	24

7. Costs

7.1 Existing operators have been granted free emissions allowances for the first two phases of the scheme based on their historic emissions. The significance of the charges can be put into perspective alongside the monetary value of these allowances. The price associated with an emission of one tonne of carbon dioxide has varied between approximately 7€/tonne and 27€/tonne in the second phase up to the end of August 2009. Using an illustrative figure of €15/tonne, the associated value of emissions

allowances for a small emitter and a large emitter can be calculated.

7.2 For installations in Northern Ireland in the lowest emissions band (less than 50,000 tonnes of CO₂), the average allocation of allowances from the National Allocation Plan (NAP) was approximately 20,000 tonnes. The associated value of these allowances (or cost of emissions) is of the order of €300,000, based on the indicative price of €15 per tonne. The proposed subsistence cost for these installations is £2521. Of the 24 installations in Northern Ireland, 17 fall into the lowest band.

7.3 For the 3 installations in the highest band in Northern Ireland, the average allocation of allowances from the NAP was approximately 2.2 million tonnes. The associated value of these allowances is of the order of €33m. The proposed subsistence charge for installations in this band is £4038.

7.4 In both cases, the subsistence charge represents a small proportion of the value of allowances. Consequently knock on effects on consumers of the proposed charges are likely to be negligible.

7.5 Costs to the regulator comprise staff time and payments to the Environment Agency (EA) for management of the Registry and national administration of applications for allocations from the New Entrant Reserve (NER). The EA is the registry administrator for all of the UK. Currently NIEA has to pay £1200 per installation to the EA for Registry management and £400 per installation (where relevant) for management of NER applications. These costs should be met by income from the charging scheme under the polluter pays principle.

8. Benefits

8.1 The proposed charging scheme is designed to recover the costs of the regulator – in this case NIEA. This will enable NIEA to implement the requirements of the 2005 Regulations and therefore deliver the obligations imposed on Northern Ireland as part of an EU Member State.

8.2 Under the preferred option 3, anticipated income to NIEA from subsistence charges would be approximately £65k in 2010-

2011, of which some £28k would be paid to the EA for registry management. Under option 4 the subsistence income would be £61k in 2010-2011, but the payment to EA would be unchanged. Under option 1, income would be approximately £52k (minus the registry payment to EA) or less if the number of installations increased further, because of the linkage in schedule 5 to the 2005 Regulations between subsistence fees and number of UK installations.

8.3 The proposed charges are in line with those for other UK Environment Agencies and would lead to a level playing field with installations elsewhere in the UK.

9. The Small Business Impact Test

9.1 Few of the businesses affected by the scheme are likely to be considered small. Even for those that may be considered small by virtue of the number of employees, the charges are not considered significant in comparison to the cost / value of emissions, as set out in section 7.

9.2 The greatest increases are proposed for subsistence fees, variation fees and transfer fees. The proposed increase in variation and transfer fees from £240 to £421 is required to reflect regulatory effort in processing variations and transfers. Variation and transfer charges only apply where a change to a permit is required or where ownership is transferred and are infrequent for an individual operator. The proposed increase in subsistence fee of approximately 26% is required to address the recent reductions in charges due to increasing numbers of UK participants and increases in NIEA's costs. These changes are not expected to have a significant impact on small firms.

10. Competition Assessment

10.1 The provision of a charging scheme is necessary to enable the regulator to recover the current costs of carrying out the duties assigned under the 2005 regulations. The proposed charges are consistent with other UK scheme participants and not expected to impact on competition.

11. Enforcement and Sanctions

11.1 The proposals will be enforced by the regulator for Northern Ireland, NIEA.

11.2 Operators holding a greenhouse gas emissions permit will be liable to pay the subsistence charges. The charges will be collected through invoices sent to operators on an annual basis. If the subsistence charge is not paid, NIEA will be able to take action to recover the money as a civil debt or revoke the permit.

12. Monitoring and Review

12.1 The Department will monitor and review the regulations to ensure that the intended objectives are achieved in an effective manner. Regular reviews of fees and charges will be undertaken by NIEA to ensure that cost recovery is maintained, with an RIA if required and similar consultation procedures as for other NIEA charging schemes. Any proposed changes to charges will also be subject to approval by the Department of Finance and Personnel. Fees and charges are reviewed annually by NIEA Finance Branch through the compilation of a Memorandum Trading Account (MTA) which shows income and expenditure for the year ended. In addition, fees and charges and associated MTAs are subject to periodic review by DRD Internal Audit and also subject to annual review by the Northern Ireland Audit Office.

13. Consultation

i) Within government

13.1 All 26 local councils in Northern Ireland will be invited to comment on the draft legislation, as part of the consultation process. Other Government Departments and Agencies will also be invited to comment.

ii) Public Consultation

13.2 Public consultation will take place from **27 November 2009 to 17 February 2010**. The consultation paper will be posted on the DOE website and organisations and individuals affected by the legislation will be invited to respond.

13.3 A report on the consultation process and responses will be prepared and published.

14. Equality Impact Assessment

14.1 The Department has carried out an equality impact screening exercise on the draft legislation. No adverse impacts for any of the 9 section 75 categories were identified. A full Equality Impact Assessment was therefore not required.

15. Human Rights Impact Assessment

15.1 The provisions of the draft legislation are fully compatible with the Convention on Human Rights.

16. Rural Proofing

16.1 A rural proofing exercise was carried out and no adverse effects were found for rural communities.

17. Summary

17.1 The Department is publishing, for consultation, (i) draft regulations to amend the Environment (Northern Ireland) Order 2002 and the Greenhouse Emissions Trading Scheme Regulations 2005 (ii) enabling regulations to provide the legislative basis for a charging scheme to supersede the fees and charges provisions in the Greenhouse Gas Emissions Trading Scheme Regulations 2005 and (iii) a draft scheme setting out the proposed fees and charges for 2010-2011.

17.2 All consultation responses received will be considered and will help to inform the content of the final regulations and the charging scheme.

18. Contact Point

18.1 Queries on this RIA and comments on the potential effects of the draft Regulations becoming law should be directed to:

David Latimer
Planning and Environment Policy Group
Department of the Environment
Calvert House
23 Castle Place
Belfast BT1 1FY

Telephone: (028) 9025 4804
Fax: (028) 9025 4732
Email: climate.change@doeni.gov.uk

ANNEX B

[DRAFT] STATUTORY RULES OF NORTHERN
IRELAND

2009 No. XX

ENVIRONMENTAL PROTECTION

The Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010

Made - - - - - *****

Coming into operation - *****

The Department of the Environment is a department designated^a for the purpose of making Regulations under section 2(2) of the European Communities Act 1972^b in relation to the environment.

The Department, in exercise of the powers conferred on it by that section, makes the following Regulations:

Citation, commencement and interpretation

1. -(1) These Regulations may be cited as the Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on xx xxxxxxxx 2010.

(2) The Interpretation Act (Northern Ireland) 1954^c shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

^a S.I. 2008/301

^b 1972 c. 68

^c 1954 c.33 (N.I.)

Amendment to the Environment (Northern Ireland) Order 2002

2. – (1) The Environment (Northern Ireland) Order 2002^d shall be amended in accordance with paragraph (2).

(2) In Schedule 1-

(a) After paragraph 9 insert-

“9A. Without prejudice to paragraph 9, authorising the Department to make schemes for the charging by enforcing authorities of fees, or other charges, as respects permits (“greenhouse gas emissions permits”) granted under the Greenhouse Gas Emissions Trading Scheme Regulations 2005^e (“the 2005 regulations”) for-

- (a) an application for the allocation of allowances to an operator;
- (b) an application for the retention of allowances by an operator ceasing to carry on an activity to which they relate;
- (c) the revocation of a greenhouse gas emissions permit;
- (d) the subsistence of an account required to be held in the trading scheme registry by an operator (“operator registry charges”).

(b) in paragraph 24, after “paragraph 9” insert “, 9A”.

(c) After paragraph 24 insert-

“24A. The regulations may require any scheme as is mentioned in paragraph 9A to include provision which gives effect to any proposal of the Environment Agency to prescribe operator registry charges and for any such charges to be paid to that Agency.”

(d) In paragraph 26,

(i) at the appropriate alphabetical place, insert-

““allowance” and “operator” have the same meaning as in the 2005 regulations;” and ““Environment Agency” means the Agency

^d 2002 No. 3153 (N.I. 7)

^e S.I. 2005/925

- constituted under the Environment Act 1995^f.”;
- (ii) after “under that Article”, for “.” substitute “.”; and
 - (iii) at the appropriate alphabetical place insert-
““trading scheme registry” means the registry established under the 2005 regulations.”.

Amendment to Regulation 18 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005

3. - (1) Regulation 18 (Fees and charges) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 is amended as follows.

(2) In paragraph (3) delete “or” at the end of sub-paragraph (a) and insert -
“(aa) in respect of installations (other than offshore installations) situated in Northern Ireland, under Regulations made under Article 4 of the Environment (Northern Ireland) Order 2002; or”.

(3) In paragraph (4) after “1995 Act” insert, “or under Regulations made pursuant to Article 4 of the Environment (Northern Ireland) Order 2002,”.

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

A senior officer
of the Department of the Environment

^f 1995 c.25

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Environment (Northern Ireland) Order 2002 to allow the Department to provide by regulation for a Northern Ireland charging scheme for the cost of regulating the EU Emissions Trading Scheme.

Regulation 2 provides new paragraphs 9A and 24A to be inserted into Schedule 1 to the Environment (Northern Ireland) Order 2002. The purpose is to provide for the inclusion of fees and charges related to greenhouse gas emissions permits and operator registry costs in the list of purposes for which the Department is authorised to make a charging scheme. It also provides that the operator charges received by the enforcing authority are to be passed to the Environment Agency.

Regulation 3 amends Regulation 18(3) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 by the insertion of a new sub-paragraph to provide that the fees and charges set out in Schedule 5 of the 2005 Regulations may be superseded by a charging scheme made in respect of installations (other than offshore installations) situated in Northern Ireland, under Article 4 of the Environment (Northern Ireland) Order 2002.

ANNEX C

[DRAFT] STATUTORY RULES OF NORTHERN IRELAND

2010 No. XX

ENVIRONMENTAL PROTECTION

The Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010

Made - - - - - *****

Coming into operation - *****

The Department of the Environment makes the following Regulations in exercise of the powers conferred by Article 4 of the Environment (Northern Ireland) Order 2002[§].

In accordance with Article 4(4) of that Order the Department has consulted district councils and such bodies or persons appearing to it to be representative of the interests of district councils as it considers appropriate, such bodies or persons appearing to it to be representative of the interests of industry, agriculture and business as it considers appropriate and such other bodies or persons as it considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 and shall come into operation on xx xxxxxxxx 2010.

Interpretation

2. In these Regulations-

[§] S.I. 2002/3153 (N.I. 7)

“2005 Regulations” means the Greenhouse Gas Emissions Trading Scheme Regulations 2005^h;

“chief inspector” means the chief inspector constituted under regulation 8(3) of the Pollution Prevention and Control Regulations (Northern Ireland) 2003ⁱ;

“the Directive” means Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC^j, as amended by Directive 2004/101/EC;

“greenhouse gas emissions permit” means a permit granted under regulation 9 of the 2005 Regulations.

The enforcing authority

3. Functions conferred by these regulations on the enforcing authority shall be functions of the chief inspector.

Fees and charges in respect of greenhouse gas emissions permits

4. - (1) There shall be charged by and paid to the enforcing authority such fees and charges as may be prescribed by a scheme under paragraph (2) (whether by being specified in or made calculable under the scheme).

(2) The Department may make and from time to time revise a scheme prescribing-

- (a) fees payable in respect of an application for the grant of a greenhouse gas emissions permit;
- (b) fees payable in respect of, or of an application for, the variation, transfer and surrender of such a permit;
- (c) fees payable in respect of the revocation of such a permit;

^h S.I. 2005/925

ⁱ S.R. 2003/46

^j OJ No L 275, 25.10.03, p. 32. The Directive is amended by Directive 204/101/EC, OJ No. L 338, 13.11.2004, p. 18.

- (d) charges payable in respect of the subsistence of such a permit;
- (e) charges in respect of, or in respect of an application for, the allocation of allowances to an operator;
- (f) charges in respect of, or in respect of an application for, the retention of allowances by an operator ceasing to carry on an activity to which they relate;
- (g) charges in respect of the subsistence of an account required to be held in the trading scheme registry by an operator (“operator registry charges”).

(3) A scheme under paragraph (2) may, in particular-

- (a) provide for the times at which and the manner in which the payments required by the scheme are to be made (subject to the requirements in the 2005 Regulations as to the times at which payment is required); and
- (b) make such incidental, supplementary and transitional provisions as appears to the Department to be appropriate.

(4) The Department, in framing a scheme under paragraph (2), shall, so far as practicable, secure that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover the expenditure incurred by the enforcing authority in exercising its functions under the 2005 Regulations.

Trading scheme registry charges

5. – (1) If the Environment Agency (the Agency)-

- (a) proposes to prescribe operator registry charges, or to amend any provision for such charges included in a charging scheme made under section 41 and 41A of the Environment Act 1995^k, and
- (b) notifies the Department of its proposals,

^k 1995 c. 25

the Department shall include in a scheme provision giving effect to the proposals.

(2) If the Agency revises any proposals of which it has given notification under sub-paragraph (1), and notifies the Department accordingly, the obligation imposed by that sub-paragraph applies in relation to the proposals as revised.

(3) A notification under sub-paragraph (1) or (2) shall include details of the amount of the proposed charges.

(4) The enforcing authority shall pass on to the Agency any operator registry charges that it receives.

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

A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations provide the framework for a charging scheme to enable the Northern Ireland Environment Agency to recover its costs for regulating the EU Emissions Trading Scheme.

Regulation 3 provides that under these regulations the functions of the enforcing authority are those of the chief inspector.

Regulation 4 provides that the Department may make, and from time to time revise, a charging scheme prescribing fees and charges for certain listed purposes related to the regulation of greenhouse gas permits and that the fees and charges shall be payable to the enforcing authority. It also provides that the scheme will prescribe the times and manner in which payments required by the scheme are made, subject to the requirements in the Greenhouse Gas Emissions Trading Scheme Regulations 2005.

Regulation 5 provides that where the Environment Agency proposes to prescribe operator registry charges these charges will be included in a scheme provision giving effect to the proposals. Any operator registry charges that the enforcing authority receives will be passed on to the Agency.

An impact assessment of the effect that this instrument will have on the costs of business is available from the Department of the Environment, Calvert House, 23 Castle Place, Belfast, BT1 1FY.

ANNEX D

Department of the Environment

A CHARGING SCHEME MADE UNDER REGULATION 4 OF THE GREENHOUSE GAS EMISSIONS TRADING SCHEME CHARGING SCHEME REGULATIONS (NORTHERN IRELAND) 2010 IN RESPECT OF PERMITS GRANTED UNDER THE GREENHOUSE GAS EMISSIONS TRADING SCHEME REGULATIONS 2005 (AS AMENDED)

The Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010

The Department of the Environment, in exercise of the powers conferred on it under Regulation 4 of the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 hereby makes the following Charging Scheme.

COMMENCEMENT AND CITATION

1. This Scheme shall be referred to as the Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010 and shall come into operation on 1st April 2010. This Scheme supersedes the provisions of Schedule 5 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005.

INTERPRETATION

2. In this Scheme, the following words and phrases shall have the following meanings:

“chief inspector” has the same meaning as under Regulation 2;

“estimated annual reportable emissions” means a reasonable estimate, in the opinion of the chief inspector, of the reportable emissions emitted from the installation in the previous calendar year (if the installation held a permit during the whole of the previous calendar year) or the reportable emissions likely to be emitted from the installation in a calendar year. Verified data will be used wherever available;

“excluded installation” has the same meaning as under Regulation 2;

“permit” means a permit granted under Regulation 9;

“Registry” means the UK’s EU Emissions Trading Registry, administered and maintained by the Environment Agency;

“Regulation” means a regulation within the Regulations;

“the Regulations” means the Greenhouse Gas Emissions Trading Scheme Regulations 2005 SI No. 925 (as amended) and expressions used in this Scheme shall have the same meaning as set out in the Regulations;

“verified annual reportable emissions figure” means the annual reportable emissions from the installation verified by a verifier or determined by the chief inspector in accordance with Regulation 30;

“verifier” has the same meaning as set out in the permit; and

“year” means a period of 12 months commencing on 1 April, unless otherwise stated.

APPLICATION OF THIS SCHEME

3. This Scheme applies to:
- (a) an application made under Regulation 8(1) for a permit to carry out a Schedule 1 activity;
 - (b) the subsistence of a permit to carry out a Schedule 1 activity;
 - (c) an application made under Regulation 14(2) for the variation of the provisions of a permit;
 - (d) the service by the chief inspector under Regulation 14(1) of a variation notice;
 - (e) an application made under Regulation 15 to transfer a permit, in whole or in part;
 - (f) an application made under Regulation 16 to surrender a permit;
 - (g) the service by the chief inspector of a revocation notice pursuant to Regulation 17(2), 24(11) or 25(3);
 - (h) an application made under Regulation 22 for an allocation of allowances from the new entrant reserve;
 - (i) an application made under Regulation 24 to retain an allocation of allowances;

PERMIT APPLICATION CHARGE

4. A permit application charge shall accompany an application for a permit made under Regulation 8(1).

5. The permit application charge is as follows:

Annual Emissions from the Installation	Charge
Less than 50kt per year	£1,324
At least 50kt and no more than 500kt	£2,477
More than 500kt per year	£5,912

SUBSISTENCE CHARGE

6. Subject to paragraphs 8 and 9 below, an annual subsistence charge shall be payable by an operator in respect of the subsistence of a permit on 1 April each year. In relation to the circumstances set out in paragraph 9 below, the charge shall be payable on or after 1 April as appropriate.

7. The subsistence charge shall be as follows:

Annual Emissions from the Installation ¹	Charge
Less than 50kt	£2,521
At least 50kt and no more than 500kt	£3,285
More than 500kt	£4,038

¹ For installations that held a permit during the whole of the calendar year in the year two years prior to the subsistence charge being due, the annual emissions shall be taken as the verified annual reportable emissions figure for that year.

In relation to installations not falling in the above category, the annual emissions shall be taken as the estimated annual reportable emissions.

8. The subsistence charge shall not be payable in respect of a permit relating to:
- (a) an installation which is an excluded installation for the duration of the year to which the charge relates;
 - (b) a planned installation which is not put into operation during the year to which the charge relates; or
 - (c) an installation in respect of which a retention notice has been served prior to 1 April in the year to which the charge relates and is not revoked during that year.
9. Where during a year:
- (a) a permit is granted in relation to an installation under Regulation 9(4);
 - (b) an installation ceases to be an excluded installation;
 - (c) a planned installation is put into operation; or

(d) a permit is partially transferred in accordance with Regulation 15;

the subsistence charge relating to the installation (or in the case of a partially transferred permit, the transferred unit) for the remainder of the year shall be a proportion of the charge calculated on a daily basis for the remainder of the period commencing on the date of the grant of the permit, the date on which the installation ceased to be an excluded installation, the date on which the planned installation is put into operation or the date upon which the transfer took effect, as appropriate.

10. Where an operator has paid the subsistence charge for a year in full and during that year:

(a) a permit is surrendered under Regulation 16;

(b) a permit is revoked under Regulation 17(1); or

(c) the installation to which the permit relates becomes an excluded installation;

the chief inspector shall make a refund to the operator of a proportion of the subsistence charge in respect of the remainder of the year calculated on a daily basis for the remainder of the year commencing on the date on which the notice of surrender or revocation takes effect or the date of the service of the certificate under Regulation 11(6), as appropriate.

VARIATION

11. Subject to paragraph 12 below, a variation charge of £421 shall:

(a) accompany an application for a variation to the provisions of a permit made under Regulation 14(2);

(b) be payable in respect of a variation notice varying the provisions of a permit served under Regulation 14(2) by the date specified in the variation notice.

12. No variation charge shall be payable where the chief inspector considers that a variation amounts to a change of a purely administrative nature.

TRANSFER

13. A transfer charge of £421 shall accompany an application to transfer a permit, in whole or in part made under Regulation 15(1).

SURRENDER

14. A surrender charge of £668 shall accompany an application to surrender a permit made under Regulation 16(1).

REVOCAION

15. A revocation charge of £668 shall be payable in respect of a revocation notice served under Regulation 17(2), 24(11) or 25(3).
16. The revocation charge shall be payable by the date specified in the revocation notice.

ALLOCATION FROM NEW ENTRANT RESERVE

17. A charge of £1,110 shall accompany an application for an allocation from the new entrant reserve under Regulation 22(1).

RETENTION OF ALLOCATION

18. For retention of an allocation, a charge of £115 multiplied by the number of hours specified in the relevant notice shall be payable in respect of:
- (a) a retention notice served under Regulation 24(7)(a); or
 - (b) a notice served under Regulation 24(7)(b).
19. The charge shall be payable by the date specified in the relevant notice.

LIABILITY TO PAY CHARGE

20. The person or persons set out below shall be liable to pay the charges payable under this Scheme:
- (a) in respect of an application for a permit, the variation of a permit, the transfer of a permit, the surrender of a permit, an allocation from the new entrant reserve or an application to retain an allocation, the person or persons making that application;
 - (b) in respect of the subsistence charge, the holder of the permit in respect of which the charge is payable;
 - (c) in respect of all other matters, the person or persons upon whom the relevant notice is served.

TIME OF PAYMENT

21. Charges payable under this Scheme shall be due and payable to the Department in full at the following times:

- (a) in respect of charges relating to an application for a permit, the variation of a permit, the transfer of a permit, the surrender of a permit, an allocation from the new entrant reserve or an application to retain an allocation, on the making of the relevant application;
- (b) in respect of subsistence charges, annually on 1 April except in the circumstances set out in paragraph 9 of this Scheme, in which case the charge is payable on demand;
- (c) for all other fees and charges, on demand.

Sealed with the Official Seal of the Department of the Environment on XX March 2010

[signed]

A Senior Officer of the Department of the Environment

ANNEX E

EQUALITY IMPACT ASSESSMENT

SCREENING FOR EQUALITY IMPACT ASSESSMENT

Northern Ireland Act 1998 (Section 75) – Statutory Equality
Obligations

The Environment (Northern Ireland) Order (Amendment)
Regulations (Northern Ireland) 2010 and the Greenhouse Gas
Emissions Trading Scheme Charging Scheme Regulations
(Northern Ireland) 2010 and the Greenhouse Gas Emissions
Charging Scheme (Northern Ireland) 2010

1. Introduction

Section 75 of the Northern Ireland Act 1998 requires all public authorities in carrying out their functions relating to Northern Ireland to have due regard to the need to promote equality of opportunity between:

- Persons of different religious beliefs.
- Persons of different political opinions.
- Persons of different racial groups.
- Persons of different ages.
- Persons of different marital status.
- Persons of different sexual orientation.
- Men and Women generally.
- Persons with a disability and persons without.
- Persons with dependents and persons without.

To satisfy this requirement, government departments carry out Equality Impact Assessments of policies and legislation to test whether they could have an adverse impact on equality of opportunity between any of the nine groups listed above. While it is acknowledged that Section 75 puts a duty on public authorities

to look at all its policy areas and not just those relating to equality issues, it is accepted that not all policies need to be assessed to the same extent. Screening aims to identify those policies that are likely to have the greatest impact on equality of opportunity and therefore should be subject to a full Equality Impact Assessment.

2. Brief Summary of the draft Regulations and Charging Scheme

The draft Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 and the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 provide the legislative means to make a Northern Ireland charging scheme to enable the Northern Ireland Environment Agency to recover the full cost of regulating the scheme. The Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010 sets out the proposed fees and charges.

3. Screening Analysis

3.1 Is there any evidence of higher or lower participation or uptake by different groups within any of the nine categories?

YES

NO

3.2 Is there any evidence that particular groups have different needs, experiences, issues and priorities in relation to the particular main policy area?

YES

NO

The proposed regulations aim to ensure protection of the environment and human health by introducing draft legislation to provide for a charging scheme thereby ensuring the effective regulation of the EU Emissions Trading Scheme in Northern Ireland. There is no evidence that particular groups have different needs, experiences, issues and priorities in relation to this topic.

3.3 Is there an opportunity to better promote equality of opportunity or good relations by altering policy or working with others in Government or the community at large?

YES	<input type="checkbox"/>
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NO	<input checked="" type="checkbox"/>
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3.4 Have consultations in the past with relevant groups, organisations or individuals indicated that particular policies create problems which are specific to them?

YES	<input type="checkbox"/>
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NO	<input checked="" type="checkbox"/>
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4. Equality Impact Assessment Decision

4.1 Full Equality Impact Assessment procedure is confined to those policies considered likely to have significant implications for equality of opportunity.

4.2 As a result of the screening analysis in Section 3, it is considered that there will be no significant implications for equality of opportunity as a result of the policy and legislation being implemented by the proposed Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010, the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 and the Greenhouse Gas Emissions Charging Scheme (Northern Ireland) 2010. There is therefore no need to submit a full Equality Impact Assessment.

ANNEX F

HUMAN RIGHTS IMPACT ASSESSMENT

THE ENVIRONMENT (NORTHERN IRELAND) ORDER 2002 (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010, THE GREENHOUSE GAS EMISSIONS TRADING SCHEME CHARGING SCHEME REGULATIONS (NORTHERN IRELAND) 2010 AND THE GREENHOUSE GAS EMISSIONS CHARGING SCHEME (NORTHERN IRELAND) 2010 - HUMAN RIGHTS ACT 1998

The purpose of this Annex is to review the Human Rights implications of the proposals contained in this consultation paper. The aim of the proposals is to consult on the draft regulations which provide a framework for making a Northern Ireland charging scheme to recover the full costs of regulating the requirements set out in the Greenhouse Gas Emissions Trading Scheme Regulations 2005.

Human Rights Assessment

The proposals laid out in this consultation document will have consequences for business rather than the individual and are fully compliant with the Human Rights Act 1998.

ANNEX G

RESPONSES

Please consider the draft regulations in this consultation document or anything else that has not been identified that you consider is relevant and which may have a bearing on the issues under consideration. Responses should be sent by mail or email to the addresses given below before **Friday 19 February 2010**.

Before you submit your response, please read Annex H on the confidentiality of consultations, which provides guidance on the legal position of any information given by you in response to this consultation. If you are responding on behalf of a group or organisation, please indicate this on your response.

By email: climate.change@doeni.gov.uk

By post:

David Latimer
Department of the Environment
Calvert House
23 Castle Place
Belfast
BT1 1FY

Or by fax: (028) 9025 4732.

Please send your response using only one of these options.

Enquires regarding the content of this consultation paper, or requests for further copies should be made to David Latimer at the above means of communication, or by telephone at (028) 9025 4804 or by textphone on (028) 9054 0642.

This document is available in alternative formats; please contact us to discuss your requirements.

A list of stakeholder organisations that have been contacted directly for this consultation is attached at Annex I. However, views from anyone interested in these proposals are very welcome.

ANNEX H

RECEIPT AND PUBLICATION OF RESPONSES

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations as they will give you guidance on the legal position about any information given by you in response to this consultation.

Freedom of Information Act 2000 – Confidentiality of Consultations

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right to information includes information in response to a consultation.

The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain information in connection with the exercise of any of the Department's functions and it would not otherwise be provided.
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature.

- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified by the Information Commissioner.

For further information about confidentiality of responses, please contact the Information Commissioner's Office, or see the web-site at:

<http://www.ico.gov.uk/>

The following document is also relevant:

[http://www.ico.gov.uk/upload/documents/library/freedomofinformation/detailed specialist guides/awareness guidance 2 information received in confidence v2 34 01 08.pdf](http://www.ico.gov.uk/upload/documents/library/freedomofinformation/detailed_specialist_guides/awareness_guidance_2_information_received_in_confidence_v2_34_01_08.pdf)

ANNEX I

List of Consultees

The following businesses and organisations are invited to respond to the consultation:

LARGE ELECTRICITY PRODUCERS	
AES Kilroot Power Ltd	Premier Power Ltd
Coolkeeragh ESB Ltd	
OTHER ELECTRICITY PRODUCERS	
Balcas Ltd	Global Contour Ltd
CEMENT	
Lafarge Cement UK PLC	Quinn Group
GLASS	
Quinn Glass Ltd	
SERVICES	
Belfast City Hospital	The Royal Hospitals
Altnagelvin H&SS Trust	
FOOD AND DRINK	
Armaghdown Creameries Ltd	LE Pritchitt & Co Ltd
Dale Farm Ltd	TMC Dairies
Glanbia Cheese Ltd	Ulster Farm Byproducts Ltd
Moy Park Ltd	
PULP & PAPER	
Huhtamaki (Lurgan) Ltd	
CERAMICS	
Tyrone Brick Ltd	
OTHER PERMITTED INSTALLATIONS	
Short Brothers PLC	Invista UK Ltd
Michelin Tyre PLC	Gallagher Ltd
OTHER CONSULTTEES	
Assembly Bill Office	Members of NI Assembly
Assembly Business Office	MPs and MEPs who are not Party leaders or MLAs
Belfast Solicitors Association	NI Assembly Library
Better Regulation Board	
Civic Forum	NI Chamber of Commerce and Industry
Civil Law Reform Division	NI Chamber of Trade

Confederation of British Industry (NI)	NI Court Service
DEFRA [DECC]	NI Law Commission (by email only)
District Councils	NI Local Government Association
Environment Committee	NI Members of the House of Lords
Equality Commission NI	NI Ombudsman
Executive Ministers and Junior Ministers	NSMC – NI Secretariat
Federation of Small Businesses	OFMDFM Central Management Unit
Human Rights Commission	OFMDFM Legislative Programme Secretariat
Inland Revenue	Office of Law Reform
Law Centre NI	Office of Legislative Counsel
Law Society of NI	Other NI Parties not in the Assembly
Leaders of Parties in the Assembly	School of Law
Legal Deposit Libraries	Society of Local Authority Chief Executives
Local Government Staff Commission for NI	Southern Education and Library Board
	Speaker of the Assembly