

Northern Ireland Environment Agency

Guidance on the Assessment of Applications for the Surrender of Waste Management Licences

March 2011

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Executive Summary

The Northern Ireland Environment Agency (NIEA) is the body within the Department of the Environment responsible for Waste Management Licensing.

This document provides the NIEA policy on the assessment and determination of an application to surrender a Waste Management Licence. This policy sets out the means the NIEA will use to ensure compliance with Article 13 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (the 1997 Order).

The 1997 Order states that a Waste Management Licence remains in force (unless it is fully revoked) until it is surrendered by its holder and, in the case of the site licence, until the Department accepts the surrender.

The Department shall accept the surrender of a site licence if it is satisfied that the condition of the land, so far as that condition is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence), is unlikely to cause pollution of the environment or harm to human health.

The licence holder must submit an application to surrender a Waste Management Licence to the NIEA for consideration. The Agency will assess the information submitted and will only accept the surrender application when they are satisfied that the condition of the land is unlikely to cause pollution of the environment or harm to human health.

The key principle to the determination of a surrender application is the use of a risk-based assessment. This document provides guidance on preparing an application to surrender a Waste Management Licence for a non-landfill activity.

Separate guidance will be issued for the surrender process for closed landfill sites.

SECTION 1: Submission and Assessment Process of an Application to Surrender a Waste Management Licence

1.1 Legal Requirements

Article 13 of the 1997 Order sets out the conditions under which the Department may accept the surrender of a Waste Management Licence.

A licence may be surrendered by its holder, but only if the Department accepts the surrender.

The effect of Article 13 (5) of the 1997 Order is to provide that the Department shall determine whether it is likely or unlikely that the condition of the land, so far as that condition is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence), will cause pollution of the environment or human harm to health.

This document provides guidance on the submission, assessment process and determination of a surrender application for a Waste Management Licence.

1.2 Submission of an Application to Surrender a Waste Management Licence

The licence holder must submit an application to surrender a Waste Management Licence. The determination process will not commence until the application is duly made.

An application for surrender will be deemed to be duly made when the following information has been submitted:

- the completed application form provided by NIEA for that purpose and signed by a person authorised to do so on behalf of the licence holder;
- the prescribed fee in accordance with the charging scheme in force at the time; and
- a Site Condition Report which provides, in sufficient detail, the relevant information and evidence required by the application form and this guidance document . The amount and detail of the information required will vary greatly and should be proportional to the likely pollution risks. A description of the likely considerations for inclusion in a Site Condition Report is given in Section 2.

1.3 Assessment Process for Surrender Applications

Where an application for the surrender of a site licence is duly made, NIEA:

- will formally acknowledge the receipt of the application
- will inform the operator of their right to appeal in the event of a non-determination
- will carry out a technical assessment of the application and supporting documents
- may require further information/ evidence to substantiate the surrender application, this may include sampling/ additional sampling
- will carry out a final site inspection
- may carry out independent sampling to validate the findings of the surrender application
- will once the application is deemed to be complete, determine the application
- will inform the applicant in writing of the determination of the application.
- will issue a surrender certificate if the application is successful.

If within a period of 3 months, beginning with the duly made date, or within a longer period as agreed in writing with the applicant, NIEA has neither issued a certificate of surrender nor given notice to the applicant that NIEA has rejected the application, NIEA shall be deemed to have rejected the application.

SECTION 2: Guidance to the Licence Holder on the Completion of the Surrender Application and Supporting Documents

2.1 Pre-Application Discussions

Licence holders should advise NIEA in writing of their intention to surrender their licence in advance of submitting a surrender application.

NIEA will invite the licence holder to a pre-application discussion and will advise on the level of detail and action required, taking account of site specific issues. NIEA and the licence holder will agree an appropriate site closure programme for the site.

The programme will include the planning and implementation of a site investigation survey if required, the implementation of any remediation works if required, and the management of the decommissioning of the site.

2.2 Application Form

All sections of the application form must be completed. Applications can not be processed until they are complete.

The correct application fee can be calculated using the Scale of Charges for Waste Management Licences which can be downloaded from

<http://www.ni-environment.gov.uk/waste-home/waste-guidance.htm>

2.3 Site Condition Report

The application form requires the submission of a Site Condition Report for the site in question. The Site Condition Report must include but not be limited to the following elements:

- A full description of all licensed activities carried out at the site including exempt activities and any unauthorised waste activities. Inclusive of start and end dates for each process.
- A full description of the management history of the site, providing details on any pollution incidents. The description should provide detail on how each incident was investigated and remedied.
- A full description of historical uses of the site before a Waste Management Licence had been issued complete with evidence of use. Evidence should be provided to demonstrate the extent to which polluting activities took place before the issue of the licence if required. Further guidance on the issue of historical use is provided in Section 3 of this document.

- Full details of quantities and types of wastes handled at the site. Where a site has handled hazardous waste, copies of all relevant records required under the Hazardous Waste Regulations 2005 should be included in the submission. Please refer to Appendix 1 for the appropriate format to present this data.
- Full details on the site condition, this may require intrusive site investigations. Appendix 2 provides guidance on intrusive site investigation requirements. Clear justifications must be given if a desk top study has been carried out.
- An evidence based risk assessment taking account of Source-Pathway-Receptor relationships for each potential hazard as a result of the waste activities. Section 3 of this document details how to complete an appropriate risk assessment.
- Full details of any remediation or decommissioning works carried out at the site.
- Statement on the condition of the land. This should confirm that the licence activities have ceased, decommissioning is complete and any pollution risk identified has been addressed satisfactorily.

Section 3: Determination of Applications to Surrender Waste Management Licences

3.1 Decision-making Process

NIEA will carry out a technical review of the Site Condition Report submitted as part of the application and will carry out a final site inspection to confirm the state of the site.

Following the technical review and the site visit NIEA may require further information from the licence holder. NIEA may also carry out an intrusive site survey to validate any monitoring results presented in the report. NIEA may also seek to recover the cost for this work from the licence holder.

In determining a surrender application NIEA will make a judgement on two elements. The licence holder will be required to provide evidence within the site condition report to assist the NIEA in the assessment of these:

- Element 1: Assessment to determine if the condition of the land is likely or unlikely to cause pollution or harm to human health using a risk based approach.

- Element 2: Consideration of whether or not the condition of the land is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence).

The following sections provide guidance to licence holders on how to provide the information to assist the determination process.

3.2 Element 1: Assessment to determine if the condition of the land is likely or unlikely to cause pollution or harm to human health using a risk based approach .

The licence holder will be required to demonstrate by way of risk assessment, supported, where appropriate, by environmental data in the Site Condition Report, that the condition of the land is unlikely to cause pollution of the environment or harm to human health.

The amount of detail required will depend on the type of activity and its environmental setting.

The risk based approach requires the identification of all hazards from the activity and the determination of the potential impacts of each hazard on receptors and the consequences of those impacts. The licence holder must therefore determine Source – Pathway- Receptor relationships for all hazards.

The first stage of the risk assessment is the identification of all potential hazards which could arise from the use of the land for the treatment, keeping or disposal of waste, (whether or not in pursuance of the licence). The

sources of potential hazards will vary depending on the waste handling activities which have been undertaken at the site:

Possible Potential Hazards for consideration

- Partially degraded wastes
- Leachate
- Landfill gas
- Dusts
- Residual contamination
- Vapours
- Pathogens
- Fibres
- Above or underground tanks
- Other site specific hazards not identified above

For sites where the potential sources are readily identifiable, the hazard identification may involve no more than a desktop study. When this is not the case an intrusive site investigation will be required. See Appendix 2 for the standard requirements for an intrusive site investigation which must be complied with. In the case of a desktop study the licence holder must provide clear justifications for this approach which are evidence based.

Once all the potential hazards and sources have been identified the licence holder must identify potential receptors and pathways for each hazard. The following lists give examples.

Potential Receptors for Consideration

- Groundwater
- Surface watercourses
- Humans
- Flora and fauna
- Atmosphere
- Built structures including underground services
- Potential end use receptors dependant on the outcome of a current planning application

Potential Pathway for Consideration

- Absorption via dermal contact
- Inhalation of air-borne gaseous or particulate pollutants
- Ingestion direct and bioaccumulation
- Manmade and naturally occurring preferential pathways i.e. service ducts or fractures in underlying rock
- Groundwater flow in the saturated zone
- Leaching through the unsaturated zone
- Surface run-off
- Breaches in the engineered containment systems

The licence holder must assess the pollutant linkage between source and receptor. The significance of the risk must be substantiated. The following actions must be carried out by licence holders and be documented in the completion report:

- Provide a qualitative and/ or quantitative assessment of each of the hazards which is evidence based.
- Carry out an assessment based on the transport and attenuation properties of each pathway identified
- Identify receptor sensitivity using appropriate reference values, these may include drinking water quality standards, environmental quality standards, background water quality occupational exposure limits, WHO Tolerable Daily intakes and ICRCCL guidelines etc

The licence holder must ensure that all pollutant linkages i.e. source-pathway-receptor relationships have been correctly identified and that the relationships have been characterised as fully as possible. A risk assessment tool may be used to aid the identification of source-pathway-receptor relationships e.g. Landsim, Consim, RAM (Risk Assessment Model), RBCA (Risk Based Corrective Action Toolkit).

3.3 Element 2: Consideration of whether or not the condition of the land is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence).

When determining an application for the surrender of a licence NIEA are required, by Article 13 (5) of the 1997 Order, to consider all activities carried out at the site whilst the licence was in force.

The term “whether or not in pursuance of the licence” means that NIEA must consider pollution from all waste management activities

In order for the NIEA to assess the impact of the activity the licence holder will be required to consider the potential contamination from the following sources within the Site Condition Report:

- All authorised and unauthorised waste handling activities during the existence of that licence.
- Exempt waste management activities
- Other activities which may or may not have been controlled by conditions of the licence e.g. fuel storage.

If a licence holder is of the view that historical activity, which took place before the waste management licence was granted, has caused contamination, evidence must be provided in the Site Condition Report. The licence holder must demonstrate the extent to which the polluting activities took place before the grant of the licence.

In the event of the operator providing relevant and substantive evidence to the NIEA that contamination is as a result of historical activity, the NIEA may consider discounting that contamination in the determination of the surrender application.

3.4 Final Site Inspection

Article 13 (4) of the 1997 Order requires NIEA to carry out a final site inspection. The extent of the site inspection will depend on the level of confidence NIEA place on the evidence submitted by the operator.

The site inspection may not be limited to a visual inspection. NIEA may carry out a more detailed survey or take samples to validate the licence holder's submission. NIEA may also seek to recover the cost for this work from the licence holder.

3.5 Determination of an Application for Surrender

If NIEA is satisfied that the condition of the land, so far as that condition is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence), is unlikely to cause pollution of the environment or harm to human health, it shall accept the surrender of the licence.

Where the surrender of the licence is accepted, NIEA will issue the applicant with a notice of its determination accompanied by a surrender certificate stating that it is satisfied about the condition of the land. On the issue of a surrender certificate, the licence shall cease to have effect.

If NIEA is not satisfied about the condition of the land and believes it is likely to cause pollution or harm, NIEA shall refuse the application. NIEA will inform the licence holder of the reasons for rejecting the application and of the holder's right of appeal against the decision.

3.6 Use of the Site after Surrender

Acceptance of the surrender of the licence and the issue of a surrender certificate does not imply that the land is suitable for development, or for any particular use. Any contamination on the site will be a material consideration if the site is to be redeveloped. However if planning permission is given for a development before an application to surrender the licence is made, the potential impact of contamination on the new development should be considered as part of the risk assessment within the completion report.

Once a surrender certificate is issued, the licence ceases to have effect. After that date, any person wishing to recommence waste activities on the site will be required to apply for the appropriate authorisation for that activity.

Appendix 1

Template to be used to present waste data in the Site Condition Plan

Waste Type (Including EWC Codes)	Total Quantity Kept	Total Quantity Treated	Total Quantity Disposed/Recycled?

Licence holders must provide approximate quantities if data is not available. If approximate quantities have been supplied the licence holder must provide justification for the quantities estimated.

Appendix 2

Site Investigation Requirements

The licence holder must agree an appropriate site investigation programme with NIEA at the pre-application meeting.

A number of factors will be taken in to consideration when designing an appropriate site investigation. In some instances a non-intrusive investigation may be appropriate. The type of investigation will be dependent on the type of waste accepted at the site, the level of compliance and the level of pollution control employed at the site.

When designing an intrusive site investigation licence holders should refer to the British Standard BSISO10175 for the investigation of Contaminated Land.

The site investigation methodology must be agreed with NIEA to ensure all appropriate data is collected and to enable NIEA to make a determination.