

**Northern Ireland Environment Agency**

**Draft Charging Policy 2010 - 2013**

**Consultation Paper**

**December 2009**



An Agency within the Department of the  
**Environment**  
[www.doeni.gov.uk](http://www.doeni.gov.uk)



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## 1. PURPOSE

1.1 The purpose of this consultation paper is to:

- propose a framework for the setting and revision of fees and charges;
- provide information on what NIEA funds from the charging schemes and explain how the money is used;
- outline proposals to limit annual increases in line with the GDP deflator, for a three year period from April 2010 to March 2013, unless covered by separate consultation; and
- explain how NIEA is reviewing its activities and structures to ensure full cost recovery **and** deliver an efficient service to businesses.

## 2. INTRODUCTION

2.1 NIEA is responsible for the implementation and enforcement of environmental regulations, many of which require operators and their activities to be authorised and monitored. The Agency is required to achieve full cost recovery for such regulatory functions through the application of fees and charges on companies we regulate.

2.2 The Environmental Protection Directorate includes three units with the powers to charge for their regulatory function: Industrial Pollution and Radiochemical Inspectorate (IPRI), Water Management Unit (WMU) and Land & Resource Management (LRM). Collectively, these activities recover costs of approximately £5 million per year for the regulatory function, out of a total budget of £55 million for the Agency. This figure has grown significantly in recent years with the introduction of new regulatory responsibilities and controls and the requirement for full cost recovery.

2.3 NIEA is required to set charges for individual schemes and regulations. However, we recognise that the number and complexity of different charging arrangements and the processes and timeframes for their application can be challenging for businesses to keep abreast of. To address this, the Agency has carried out an assessment of its own schemes and that of sister agencies. This exercise has informed the direction of the Charging Policy.

2.4 This document outlines how NIEA fees and charges are set. It also shows how the Agency is working to recover costs while minimising the impact on business when carrying its regulatory functions, and to provide more clarity and certainty for customers. The consultation seeks the views of charge

payers and stakeholders on NIEA's proposed Charging Policy for a three year period from April 2010 to March 2013.

### **3. NIEA CHARGING POWERS**

- 3.1 NIEA is funded by the Department of the Environment's allocation from the Northern Ireland block and also by income generated through the levying of fees and charges, where there are legislative powers to do so.
- 3.2 Charging schemes are designed to recover costs based on the polluter pays principle and in accordance with government and treasury guidance. In some instances, charges are set in UK-wide regulations for a limited number of common duties and these national schemes are applicable in Northern Ireland. However more commonly, environmental regulations are made specifically for Northern Ireland with powers to set fees and charges to cover the local regulatory costs associated with implementation.
- 3.3 Over the last decade, there has been a significant increase in new legislation relating to the environment, driven largely by EU Directives. Rapid growth in volume, and the urgency within which it was transposed, has resulted in numerous sets of primary and secondary provisions, and associated charging arrangements. The initiative proposed in this consultation paper reflects those of other environmental regulators who have moved towards co-ordination and simplification to provide greater clarity and consistency.
- 3.4 There are 13 Northern Ireland charging schemes currently applied by NIEA (Appendix 1) and to which the new Charging Policy will apply. Under current arrangements, a new charging scheme, or proposed changes to an existing scheme, may go out for public consultation. These individual consultations take place at various times throughout the year.
- 3.5 Consultation is generally undertaken when there are:
  - changes in the level of fees and charges;
  - changes to the body of the scheme; or
  - when a new scheme is identified due to changes in, or the implementation of, new legislation.

## 4. RECOVERING COSTS

- 4.1 NIEA's fees and charges are set in accordance with the Department of Finance and Personnel's guidance document '**Managing Public Money Northern Ireland**' (June 2008) which sets out the main principles for dealing with resources used by the public sector and the setting of fees and charges in Northern Ireland.
- 4.2 Charges are based on anticipated regulatory effort associated with the processing and monitoring of environmental authorisations, using average staff salaries, plus costs of accommodation and support services.
- 4.3 The operation of NIEA charging schemes is regularly reviewed and is subject to audit to ensure that fees and charges are determined and applied appropriately. Charging income is applied only to the function to which it relates. This means that charges relating to one regulatory activity cannot be used to subsidise another.
- 4.4 The standard approach to setting charges for public services is the requirement to achieve full cost recovery. These costs are incurred when undertaking an activity which is a direct or indirect result of the existence of an authorisation or when a permit holder benefits from the activity (e.g. research and development or IT systems).
- 4.5 Income raised through NIEA charging schemes must recover all costs which are incurred in carrying out our regulatory functions. These include the receipt and processing of applications, consultation with authorisation holders, the assessment of potential impacts on people and the environment and the issue of authorisations. It also encompasses compliance monitoring, review and variation of authorisation conditions, and the issue of warning letters and notices. Other costs include regulatory staff salaries, and the services needed to support them and their activities, such as accommodation, office services, IT, policy and guidance, process management, finance and personnel.
- 4.6 The development of systems such as information technology, guidance documentation and research and development are also deemed to be chargeable costs, although they have not generally been charged for to date. It is proposed that future separate consultations will detail those chargeable costs that may be associated with each type of authorisation.

## 5. CHARGING FRAMEWORK

- 5.1 NIEA recognises the financial and other difficulties currently facing business and industry and the importance of being able to plan and budget for fees and charges. The Agency believes it is essential to strike a balance between being sensitive to the economic situation for business and industry while at the same time providing the necessary funding to support the duties which must be carried out to protect human health and the environment, and ensure even competition.
- 5.2 NIEA has identified a number of areas where existing charging schemes could be improved. Maintaining full cost recovery materially affects the ability of the Agency to deliver its regulatory responsibilities and provide adequate compliance assistance and service to regulated businesses. Therefore, some of these schemes will be subject to significant revision.
- 5.3 NIEA proposes to **limit fee increases in line with the GDP deflator** on an annual basis for a 3 year period from April 2010 to March 2013. This will allow the Agency to reflect increasing costs to some degree while a more substantial assessment of individual charging arrangements is carried out, where required.
- 5.4 When developing the Charging Policy, NIEA looked at a number of economic measures of inflation, including the GDP deflator, the Retail Price Index (RPI) and Consumer Price Index (CPI). The GDP deflator is considered the most comprehensive measure of inflation since a wide array of goods and services are included in its construction. It is the least volatile of the existing measures and provides a more balanced indication of the impact of changes on prices. The GDP deflator has typically been 2-3% over the last 2 years. The use of the GDP deflator allows NIEA to take a more balanced approach to charging, by locking into the current economic situation and so reflecting current costs being incurred by the Agency.
- 5.5 The GDP deflator series is produced by the Treasury from data provided by the Office for National Statistics (ONS). It is proposed to use the GDP deflator published in the Pre-Budget Report in November of the preceding year, as the basis for limiting annual increases for those existing schemes which do not require significant revision.
- 5.6 From April 2010, where new schemes are to be introduced or where substantial revisions to an existing scheme are required, consultation with stakeholders will be carried out simultaneously, through single or parallel consultation papers. This will allow businesses, some of which may hold a number of authorisations, to more easily establish the likely total impact of the proposed changes to their costs for the forthcoming year.

- 5.7 NIEA will publish all its fees and charges for the forthcoming year and all consultations on the Agency website on a dedicated Charges webpage at [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk).

## **6. DELIVERING BETTER REGULATION**

- 6.1 NIEA is fully committed to the Better Regulation agenda, as outlined in its position statement “Better Regulation for a Better Environment (March 2008). The Agency is currently exploring the use of a range of regulatory instruments, such as standard permits for less complex activities, as well as wider use of simple registrations, which would attract different levels of charging.
- 6.2 The development of on-line applications is an important step in improving the efficiency of the NIEA authorisation process and providing a speedier service to customers. By December 2009, over 30 of NIEA’s application forms will be available for completion, submission and payment online.
- 6.3 The Agency is directing its efforts and resources to those operators and activities which pose the greater risk to the environment. Charges should reflect the amount of time and effort that goes into regulating an authorised operator or activity and reflect the risk posed. To assist in determining an operator’s risk profile, a risk assessment model has been developed, which looks at the complexity of the activity, compliance and performance record, site management and sensitivity of the local environment. The model will be populated and tested over the next 12 months with a view to developing risk-based charging schemes, which will undergo full public consultation within the period of the Charging Policy.
- 6.4 NIEA is continually seeking ways to assist compliance and improve environmental performance throughout Northern Ireland’s regulated industry. The review of NIEA’s charging schemes and those of the other environment agencies indicates that there is potential for NIEA to include a more flexible mix of chargeable regulatory activities beyond the normal “licence and inspection” roles, where appropriate. There is an increasing expectation for more sector-specific guidance and compliance assistance, tailored to the needs of the industry, and for more sophisticated IT solutions to meet permit requirements which would be of benefit to regulated industry. Other agencies are increasingly using fees and charges income to fund these activities where it is felt that the environmental outcomes will be improved.
- 6.5 To ensure that the Agency is as efficient as possible, a comprehensive review of its structures and organisation is now underway. This will examine current corporate and command structures, additional statutory

responsibilities, the implementation of Better Regulation and recommend options for organisational change that will provide flexibility, governance and management arrangements to meet changing economic and environmental pressures.

## **7. NIEA CHARGING POLICY DEVELOPMENT 2010 – 2013**

- 7.1 The full list of the current charging arrangements for which the Charging Policy would apply is provided in Appendix 1.
- 7.2 The assessment of current fees and charges exercise carried out did reveal that some of the schemes require fuller investigation and interrogation of their function and applicability. In addition, the Agency is exploring a number of regulatory areas carried out by NIEA teams for which there is currently no charge applied but where cost recovery may be appropriate. In circumstances such as these, full consultation will be issued as outlined in section 5.6.
- 7.3 Once a scheme has been developed or revised, it will then be subject to the GDP deflator increase, following annual review.
- 7.4 It is proposed that the Charging Policy will be reviewed for its suitability and function at the end of 2011/12, to determine the approach for the period 2013-2016. This review will be accompanied by full consultation with industry and other stakeholders.

## **8. SUMMARY**

- With effect from 1<sup>st</sup> April 2010, NIEA proposes to limit fee increases in line with the GDP deflator on an annual basis for a 3 year period from April 2010 to March 2013, except where substantial revision is required;
- From April 2010, where new schemes are to be introduced or where substantial revisions to an existing scheme are required, consultation with stakeholders will be carried out in tandem, through single or parallel consultation papers;
- In 2010/2011 NIEA will assess the suitability of schemes for the introduction of risk- based charging and wider services; and
- NIEA will publish all its fees and charges for the forthcoming year and all consultations on the Agency website on a dedicated Charges webpage at [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk).

## **9. CONSULTATION QUESTIONS**

The Northern Ireland Environment Agency is keen to listen to your views on its proposals for fees and charges. The Agency aims to fully recover its regulatory costs whilst providing an efficient service and restricting fee increases. The questions posed below are designed to encourage you to express your opinions and share ideas. However, your response does not need to be restricted to these questions. All constructive comments are welcomed.

### **Purpose (Section 1)**

Question 1 – What general comments do you have on the purpose of the consultation paper?

Question 2 - In particular, do you consider there to be other aims and objectives incorporated in the review?

Question 3 - Can you identify them and illustrate your reasons with examples from other organisations?

### **Introduction (Section 1)**

Question 4 – If you consider that the concepts behind the proposals for fees and charges are not sufficiently explained which aspects would you recommend for further development in order to improve understanding?

### **NIEA Charging Powers (Section 2)**

Question 5 – Is the explanation of NIEA's powers for charging for its regulatory function sufficiently detailed?

### **Recovering Costs (Section 3)**

Question 6 - Do you have any comments on the variety of regulatory activities that are chargeable?

Question 7 - Do you consider that the charges relate well to the service provided and if not would you prefer to alter the service or fee level?

Question 8 – Have we clearly explained why we have to charge and what we can charge for?

Question 9 – Can you highlight any additional services which you believe the Agency has the skills and knowledge to provide that you would benefit from and be prepared to pay for?

#### **Charging Framework (Section 4)**

Question 10 – Do you feel there is a better way to co-ordinate charging arrangements for NIEA other than through a charging framework?

Question 11 - Can you detail an alternative mechanism and offer an illustration of where and how it has been successfully applied?

Question 12 – Can you recommend a more appropriate, stable inflationary measure to restrict price increases other than the proposed use of the GDP deflator?

#### **Delivering Better Regulation (Section 5)**

Question 13 – What are your views on the proposed use of risk based charging?

Question 14 - What level of high performance discount would you consider to be an incentive for compliance?

Question 15 - Do you consider it to be reasonable for lower performance to result in higher fees to reflect the increased level of auditing required to monitor compliance?

Question 16 – What other measures would you suggest that NIEA use to assist businesses with their regulatory compliance?

#### **NIEA Charging Policy Development 2010-13 (Section 6)**

Question 17 – Do you consider the three year timeframe proposed for the periodic review of the Charging Policy to be appropriate?

Question 18 – Would the provision of a web based tool be helpful for indicating and calculating costs and charges?

## **10. HOW TO RESPOND**

Your views are invited in response to this consultation by **Friday 26<sup>th</sup> February 2010**. Further copies of this consultation paper are available from the address below. The document is also available on our website at [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk).

Respondents are requested to explain who they are, and in the case of representative groups, to give a summary of the people and/or organisations they represent.

Responses should be sent to:

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## **11. IMPACT ASSESSMENTS**

### **Regulatory Impact Assessment**

A partial Regulatory Impact Assessment accompanies this consultation and is included at Appendix 2.

### **Equality Issues**

Under Section 75 of the Northern Ireland Act 1998, public authorities have a statutory duty to promote equality of opportunity. We have completed an equality screening of the proposed Charging Policy 2010 – 2013 and have concluded that it does not impact on equality of opportunity on any of the groups specified in Section 75. The screening paper can be found at Appendix 3. Any Section 75 issues raised as a result of this consultation process will be taken into consideration.

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**

The Human Rights Act 1998 implements the European Convention on Human Rights. The Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. We believe that the proposed NIEA Charging Policy is compatible with the Human Rights, but would welcome any views that you may have.

The Human Rights commission will receive copies of the consultation document as part of this consultation. We will take into account any comments that the commission might have.

**Appendix 1:**  
**Current Charging Arrangement for which the new Policy will apply**

**NIEA Charging Schemes**

- Pollution Prevention and Control (Industrial Pollution and Radiochemical Inspectorate) Charging Scheme (Northern Ireland 2009)
- Radioactive Substances (Fees & Charges) Scheme (Northern Ireland) 2009
- Fees and Charges in respect of Costs associated with the regulation of Discharges made by NIW – Scheme No 1
- Discharge of Effluent into Waterways and Underground Strata (Fees & Charges) Scheme (Northern Ireland) 2005
- Water Abstraction and Impoundment Licensing Fees & Charges Scheme
- Waste Management Charging (Northern Ireland) Scheme 2009/10
- Waste Management Licensing Regulations (Northern Ireland) 2003 and amendments (2006 & 2009)
- Waste Electrical and Electronic Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006
- Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007
- The Waste Electrical and Electronic Equipment (Charging) Regulations (Northern Ireland) 2006
- The Waste Batteries and Accumulators (Charges) Regulations (Northern Ireland) 2009
- Hazardous Waste Regulations (Northern Ireland) 2005
- Polychlorinated Biphenyls (PCBs) Regulations Charging Scheme

There are also a number of UK schemes with charges set in UK regulations and which are applicable in Northern Ireland.

## **Appendix 2: Partial Regulatory Impact Assessment**

### **1. Title of Proposal**

Northern Ireland Environment Agency Charging Policy 2010 – 2013.

### **2. Purpose and Intended Effect of Measure**

The purpose of the consultation paper is to:

- propose a framework for the setting and revision of fees and charges;
- provide information on what NIEA funds from the charging schemes and explain how the money is used;
- outline proposals to limit annual increases in line with the GDP deflator, for a three year period from April 2010 to March 2013, unless covered by separate consultation; and
- explain how NIEA is reviewing its activities and structures to ensure full cost recovery **and** deliver an efficient service to businesses.

The effect will be an increase in the fees and charges imposed by NIEA as the environmental regulator, by an inflationary measure on an annual basis. This will impact on all those subject to environmental regulation for those activities which have the potential to impact on air, water or land.

#### **2.1 Objective**

The legislation requires that fees and charges levied by enforcing authorities must recover the costs of undertaking the regulatory functions.

#### **2.2 Background**

NIEA seeks to safeguard the quality of the environment through effective regulation of activities that have the potential to impact on air, water and land. This involves issuing consents, licences, permits and authorisations and enforcing standards for compliance.

The Agency is required to achieve full cost recovery for such regulatory functions through the application of fees and charges on companies it regulates. However, NIEA recognise that the number and complexity of different charging arrangements and the processes and timeframes for their application can be challenging for businesses to keep abreast of. To address this, NIEA has carried out a review of its own schemes and that of sister agencies with a view to

establishing a common methodology for revising fees and charges and consolidating consultation with key stakeholders.

The draft Charging Policy outlines how NIEA fees and charges are set, how the Agency is working to recover costs while minimising the impact on business when carrying its regulatory functions, and to provide more clarity and certainty for customers.

Proposals to apply a small increase to reflect the impact of inflation on Agency costs over the period of the Charging Policy, will allow the Agency the complete structural and functional reviews which will help to ensure that the delivery of regulatory functions is efficient as possible and that charges levied are reasonable.

NIEA recognises the financial and other difficulties currently facing business and industry and the importance of their being able to plan and budget for fees and charges. The Agency believes it is essential to strike a balance between being sensitive to the economic situation for business and industry while at the same time providing the necessary funding to support the duties which must be carried out to protect human health and the environment. It is also important that industry, and not the tax-payer, pays for regulating industrial activity in Northern Ireland.

There are 13 Northern Ireland charging schemes currently applied by NIEA and to which the proposed Charging Policy will apply. The recovery of regulatory costs in each case would have been addressed through separate partial, and subsequently full, Regulatory Impact Assessments, which would have formed part of the consultation process prior to their introduction.

### **2.3 Rationale for Government Intervention**

The Department has a legal obligation to set the level of fees and charges to recover NIEA's costs. Insufficient cost recovery would lead to the costs of regulation falling upon the taxpayer which would also contradict the "polluter pays" principle.

NIEA has identified a number of areas where existing charging schemes could be improved. Maintaining full cost recovery materially affects the ability of the Agency to deliver its regulatory responsibilities and provide adequate compliance assistance and service to regulated businesses.

### **3. Summary of Proposals**

The key proposals are:

- With effect from 1<sup>st</sup> April 2010, NIEA proposes to limit fee increases in line with the GDP deflator on an annual basis for a 3 year period from April 2010 to March 2013, except where substantial revision is required;
- From April 2010, where new schemes are to be introduced or where substantial revisions to an existing scheme are required, consultation with stakeholders will be carried out simultaneously, through single or parallel consultation papers;
- In 2010/2011 NIEA will consult on the introduction of risk-based charging and wider services; and
- NIEA will publish all its fees and charges for the forthcoming year and all consultations on the Agency website on a dedicated Charges webpage at [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk).

For the purposes of this partial RIA the current GDP deflator of 2.45% will be applied.

### **4. Charging Policy Options**

#### Option A: Do nothing

The option would propose no change to the existing charging arrangements.

#### Option B: Freeze charges during the period of the Charging Policy 2010 - 2013

Impose a cessation on any further fee increases for the duration of the Charging Policy, apart from the application of the GDP deflator.

#### Option C: GDP deflator less 0.5%

Consider an inflationary increase of 0.5% below the GDP deflator as an automatic efficiency saving measure imposed on the Agency.

#### Option D: Limit fee increases in line with the GDP deflator

Limit fee increases to 2.45% in 2010/11 and in subsequent years to a figure in line with the GDP deflator which will allow the Agency to reflect increasing costs to some degree while a more substantial assessment of individual charging schemes is carried out, where appropriate.

## 5. Benefits

### Option A: Do nothing

If there is no change the current methodology for revising and setting fees and charges will remain complex and unclear for those businesses holding environmental authorisations. This does not adhere to the principles of the Better Regulation Programme.

### Option B: Freeze charges during the consultation period

A freeze on the current fees and charges would be beneficial to industry.

### Option C: GDP deflator less 0.5%

An inflationary increase of 0.5% below the GDP Deflator had been considered as an automatic efficiency saving measure imposed on the Agency. While any opportunity to reduce the application of fees and charges would be beneficial to industry it could not be considered at this stage due to the reasons outlined below.

### Option D: Limit fee increases in line with the GDP deflator

When developing the Charging Policy, NIEA looked at a range of economic measures of inflation, including the GDP deflator, the Retail Price Index (RPI) and Consumer Price Index (CPI). The GDP deflator is considered the most comprehensive measure of inflation since a wide array of goods and services are included in its construction. It is the least volatile of the existing measures and provides a more balanced indication of the impact of changes on prices.

The proposed increase will allow the Agency to reflect increasing costs to some degree while a more substantial assessment of individual charging schemes is carried out where necessary. This will assist the Agency to deliver a more efficient service to business, as the proposals outlined in the Charging Policy will aid co-ordination and simplification and provide greater clarity and consistency to stakeholders.

NIEA recognises the financial and other difficulties that business and industry are currently facing and the proposed annual increase should assist business, as they will know in advance what fees will be and can plan and budget for them. This will be of particular benefit to those businesses holding a number of authorisations.

## 6. Costs

### Option A: Do nothing

'Doing nothing' would create a serious risk of under recovery of the NIEA's regulatory costs. This would be at odds with government policy on achieving full cost recovery which gives effect to the 'polluter pays' principle and allows for effective regulation to be carried out at least cost to the taxpayer. Shortfalls in fees and charges directly affect the Agency's ability to deliver its regulatory responsibilities, and provide adequate compliance assistance and service to regulated businesses. The nett result would be uneven competition and a significant increased risk of pollution. The Agency would become unable to support its duties to protect human health and the environment, and face both infraction proceedings and community challenge.

Consequently more substantial increase in some charges would be required in subsequent years to address the deficit.

### Option B: Freeze charges during the consultation period

In the early stages of the review of current charging arrangements the possibility of halting any fee increases during the Charging Policy, apart from the application of the GDP deflator was appraised. Such a freeze on fees would have directly benefited industry in the short term. However, the measure would have given the Agency an additional financial pressure which it is not in a position to meet having already provided substantial cost savings by the compression of its business and in addition met in full the second year savings of a 3 year Efficiency Delivery Plan. Furthermore, the review revealed a number of areas where existing charging schemes could be improved to incorporate service provisions for which no charge is currently levied. Consequently a freeze on fees was considered to be imprudent.

### Option C: GDP deflator less 0.5%

Another option considered was the application of an automatic efficiency measure by imposing on the Agency, a constant reduction of 0.5% against the GDP deflator. However, for the same reasons as outlined for Option B above, which are existing financial pressures, current year on year efficiency measures and the projected constraints on public expenditure, such a progressive, additional budget reduction was not deemed appropriate at this juncture. While the Agency recognises the financial and other difficulties currently facing business and industry, it must maintain its ability to deliver its regulatory responsibilities to protect human health and the environment.

## Option D: Limit fee increases in line with the GDP deflator

The use of the GDP deflator (currently 2.45%) to increase fees and charges on an annual basis will impact on all businesses currently regulated by NIEA to some extent. The financial impact will depend on the type of authorisation(s) held and the complexity of the business operation/activity. There will be no cost with regard to new equipment, or training for example as the cost will be specifically on the charge applied.

### **Costs for a typical business**

There is a very wide range in the number and type of authorisations regulated by NIEA. Some of these are simple while others are more complex. For example, Land & Resource Management have 472 different charges for different activities within the Waste Management Charging (Northern Ireland) Scheme 2009/2010.

For each unit, as an illustration of the impact of the 2.45% increase on business, we have used examples of charges covering some typical activities.

<b>Unit</b>	<b>Activity</b>	<b>Current Charge</b>	<b>Proposed Increase</b>	<b>Proposed Charge</b>	<b>Increase</b>
<b>Industrial Pollution and Radiochemical Inspectorate</b>	eg Medium size industrial installation (3 components) subsistence	£4,668	2.45%	£4,782	£114
	eg Band2 Farm subsistence	£,1445	2.45%	£1,480	£35
<b>Land and Resource Management</b>	eg Landfill Site subsistence	£33,337	2.45%	£34,154	£817
	eg Exemption from waste management licensing No. 27*	£0	2.45%	£0	£0
<b>Water Management Unit</b>	eg Dredging application	£28,000	2.45%	£28,686	£686
	eg Domestic discharge consent	£110	2.45%	£113	£3

\*This represents a one of the areas where NIEA carryout a regulatory function for no fee

Using the charges from Land and Resource Management as an example, 88% of the charges would increase by less than £100 per year, while only 2% of the charges would increase by more than £250 per year. These would be large scale activities with inherently large environmental impacts. The average charge would increase would be £25.00.

## **7. The Small Business Impact Test**

A significant proportion of those regulated by NIEA in Northern Ireland are small firms, and the proposed use of the GDP deflator as a limit for fee increases will affect some small firms. The level of impact can be proportional to the size of the business, however this is not always the case. With regard to environmental regulation the charge more often reflects the complexity of the operation and the anticipated regulatory effort, rather than the business size.

The GDP deflator is proposed as a measure of inflation as it is the least volatile of the existing measures and a fairer reflection of the current economic situation than other inflationary measures.

## **8. Enforcement and Sanctions**

The payment of all charges is mandatory. NIEA can enforce bad debt procedures in the usual manner and can revoke authorisations for non-payment of subsistence charges without scope for appeal. The policy will be enforced in line with the NIEA Enforcement Policy that can be viewed from the NIEA website at [http://www.ni-environment.gov.uk/ep\\_enforcement\\_policy.pdf](http://www.ni-environment.gov.uk/ep_enforcement_policy.pdf).

## **9. Monitoring and Review**

Implementation and Delivery Plan

It is proposed to implement the charging policy with effect from 1 April 2010.

Post Implementation Review

The Charging Policy will be reviewed for its suitability and function at the end of 2011/12, to determine the approach for the period 2013-2016. This review will be accompanied by full consultation with industry and other stakeholders, including further regulatory impact assessment.

Proposed changes to charging schemes are also subject to approval by the Department of Finance and Personnel. Additionally 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. Charging schemes and associated MTAs are subject to periodic review by DRD Internal Audit and annual review by the Northern Ireland Audit Office.

## **10. Consultation**

NIEA carried out an internal review of existing charging schemes and also consulted with sister environmental agencies in the UK and Ireland as part of the pre-consultation exercise. The Charging Policy will be the subject of a full 12 week public consultation exercise.

## **11. Summary and Recommendation**

It is recommended that proposals to limit fees increases in line with the GDP deflator on an annual basis, for a 3 year period from April 2010 to March 2013 be accepted. This will allow the Agency to reflect increasing costs to some degree while a more substantial assessment of individual charging schemes is carried out where required. This move towards greater clarity and consistency is of benefit to both the regulated and the regulator as it will assist with the development of new ways to assist compliance and improve environmental performance.

## **Appendix 3: DOE Section 75 Equality of Opportunity Screening Analysis**

### **Section 1**

#### **Introduction**

This form is intended to help you to consider whether a new policy (either internal or external) or legislation will require a full equality impact assessment (EQIA). Those policies identified as having significant implications for equality of opportunity must be subject to full EQIA.

The form will provide a record of the factors taken into account if a policy is screened out, or excluded for EQIA. It will provide a basis for consultation on the outcome of the screening exercise and will be referenced in the Annual Report to the Equality Commission. Copies of completed forms should be retained on file within business areas (**and a copy sent to the Equality Unit**) and reference should be made to the outcome of the screening exercise and subsequent consultation in any submission made to the Minister.

#### **Background**

##### **The Legal Background**

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The main groups within each of the nine categories, highlighted above, are identified at Appendix 1. In addition, without prejudice to its obligations above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

#### **Advice on Completion of the Screening Form**

It is important that the screening form is completed carefully and thoughtfully. Your Divisional or Agency Equality Officer and the Department's Equality Unit in room 413A Clarence Court (ext 40203/40813) will be happy to assist with all aspects of the screening process and will help with the completion of the form, if required.

Further advice on the screening process can be accessed at Section 4 of the Equality Commission's Guide to the Statutory Duties.

### **Policies included for EQIA**

If, after screening, it is decided that a policy will require a full EQIA, a decision will be required on the priority and timing of the assessment. The screening form should be noted accordingly, signed off and copied to the Equality Unit for inclusion in the EQIA programme.

### **Policies excluded for EQIA**

If a decision is taken to screen out the policy or where there is ambiguity about the equality implication of the proposal, the screening form should be signed off by a senior officer responsible for the policy and a copy sent to the Equality Unit. Copies of all screening out forms will be placed on the Department's website.

## **Section 2 – Policy to be Screened**

### **Definition of Policy**

There have been some difficulties in defining what constitutes a policy in the context of Section 75. To be on the safe side it is recommended that you consider changes to or any new initiatives, proposals, schemes or programmes as policies. The policies covered in the Equality Scheme EQIA programme are a reasonable guide both to the nature of external departmental policies and the level at which they should be considered.

The revised Guidance from The Equality Commission emphasises that the Statutory duties apply to **internal** policies (relating to people who work for the organisation) as well as **external** policies (relating to those who are, or could be, served by the organisations).

It is important to remember that even if a full EQIA has been carried out in respect of an "overarching" policy or strategy, it will still be necessary for the policy maker to consider if a further EQIA needs to be carried out in respect of those policies cascading from the overarching strategy. OFMDFM Guidance on Legislative Procedures (Primary and Subordinate) sets out clearly the stages at which equality of opportunity considerations should be taken into consideration in the development of legislation.

## **Overview of Policy Proposals**

The aims and objectives of the policy must be clear and well defined. You must take into account any available data or evidence that will enable you to come to a decision on whether or not a policy may or may not have a differential impact on any of the S75 categories. Evidence may be qualitative and or quantitative and may include research or internal information and or experience in relation to service and customer monitoring exercises. Where appropriate, arrangements should be made to obtain any data necessary to assist screening. The Equality Unit or Central Statistics & Research Branch (Stephanie Harcourt ext 40878 or Michael Bennett ext 40916) are available to provide advice on data requirements.

### **2.1 Please insert below a brief description of the policy/legislation, including the title and all the main aims and objectives**

**Title** Northern Ireland Environment Agency Charging Policy 2010 - 2013

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**Aims** With effect from 1<sup>st</sup> April 2010, NIEA proposes to limit fee increases in line with the GDP deflator on an annual basis for a 3 year period from April 2010 to March 2013, except where substantial revision is required;

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From April 2010, where new schemes are to be introduced or where substantial revisions to an existing scheme are required, consultation with stakeholders will be carried out simultaneously, through single or parallel consultation papers;

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In 2010/2011 NIEA will consult on the introduction of risk-based charging and wider services; and,

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NIEA will publish all its fees and charges for the forthcoming year and all consultation on the Agency website on a dedicated Charges webpage at [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk).

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It is essential that all the aims/objectives of the policy be clearly and fully defined.

### **2.2 On whom will the policies / legislation impact? Please specify**

All those subject to environmental regulation and holders of environmental authorisations

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### **2.3 Who is responsible for (a) devising and (b) delivering the policy, eg is it DOE, a Whitehall Department or EU? What is the relationship and have they considered this issue and any equality issues?**

(a) NIEA as the environmental regulator

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(b) NIEA

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**2.4 What linkages are there to other NI Departments/NDPBs in relation to this policy/legislation?**

To maintain full cost recovery for regulatory activities under this policy NIEA will work closely with Finance Unit, Department of Finance and Personnel, Internal Audit and the Northern Ireland Audit Office

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**2.5 What data are available to facilitate the screening of this policy/legislation?**

None

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**2.6 Is additional data required to facilitate screening? If so, give details of how and when it will be obtained.**

No

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See Appendix 4 of the Equality Commission Practical Guidance on EQIA which provides a list of Sources of S75 data or speak to Central Statistics and Research Branch (Stephanie Harcourt, ext 40878, or Michael Bennett, ext 40916) or Equality Unit (Alex Boyle, ext 41194, or Laura McAleese, ext 40203).

**Section 3 – Screening Analysis**

In cases where there is no available quantitative evidence, you will need to take a pragmatic, common sense judgement as to whether the policy/legislation you are screening may have a particular/differential impact on any of the groups. Discussions with Equality Unit, Statistics Branch and organisations representing the Section 75 Groups will be important and helpful at this stage in obtaining qualitative evidence of impacts. Every effort should be made to ensure that assessments are evidence based.

The following criteria must be considered when screening.

**3.1 Is there any indication or evidence of higher or lower participation or uptake by the following Section 75 groups?**

	Yes	No
Religious belief		X
Political opinion		X
Racial group		X
Age		X

Marital status		X
Sexual orientation		X
Gender		X
Disability		X
Dependants		X
<b>Please give details:</b>		
The charging policy issue will impact on holders of environmental authorisations and NIEA staff. There is no evidence of higher or lower participation or uptake by any of the Section 75 groups.		

**3.2 Is there any indication or evidence that any of the following Section 75 groups have different needs, experiences, issues and priorities in relation to this policy issue?**

	Yes	No
Religious belief		X
Political opinion		X
Racial group		X
Age		X
Marital status		X
Sexual orientation		X
Gender		X
Disability		X
Dependants		X

**Please give details:**

The Charging Policy 2010 – 2013 will impact on holders of environmental authorisations and the business community. There is no evidence that any of the Section 75 groups have different needs, experiences, issues and priorities in relation to this policy issue.

**3.3 Have consultations with the relevant representative organisations or individuals within any of the Section 75 categories, indicated that policies of this type create problems specific to them?**

	Yes	No
Religious belief		X
Political opinion		X
Racial group		X
Age		X

Marital status		X
Sexual orientation		X
Gender		X
Disability		X
Dependants		X

**Please give details of any consultations carried out, and any problems identified**

No problem areas or issues have been identified at this stage. However any section 75 issues raised as a result of this consultation exercise will be taken into consideration.

**3.4 Is there an opportunity to better promote equality of opportunity or community relations by altering the policy, or by working with others, in Government, or in the larger community in the context of this policy?**

No

**Please give details:**

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This is not relevant, as the Charging Policy applies equally to those businesses that have an environmental impact and which NIEA has a duty to regulate.

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**3.5 It may be that a policy/legislation has a differential impact on a certain Section 75 group, as the policy has been developed to address an existing or historical inequality or disadvantage. If this is the case, please give details below:**

**Please give details:**

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There is no evidence that the Charging Policy will have a differential impact on any Section 75 group. The charging powers which permit NIEA to charge for its regulatory function are applicable to all sectors of society.

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**3.6 Please consider if there is any way of adapting the policy to promote better equality of opportunity or good relations.**

**Please give details:**

The policy outlines NIEA proposals for a Charging Policy with regard to its regulatory function. Given the nature of the policy and its purpose, there isn't a way to adapt it to promote better equality of opportunity or good relations.

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**3.7 In relation to Departmental obligations under Section 49A of the Disability Discrimination Act 1995 (DDA) (as amended by the Disability Discrimination (Northern Ireland) Order 2006), please consider if there is any way of adapting the policy to show due**

**regard to the need to promote positive attitudes towards disabled people and/or encourage participation by disabled people in public life.**

**Please give details:**

This does not apply to the Charging Policy which outlines NIEA proposals to set fees and charges with regard to its regulatory function.

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**Section 4**

**EQIA Recommendation**

You should consider carefully in this section whether full EQIA is necessary, particularly where answers to any questions in Section 3 are affirmative.

**4.1 Full EQIA procedures should be carried out on policies considered to have significant implications for equality of opportunity. Please fill in the following grid in relation to the policy/legislation.**

<b>Prioritisation Factors</b>	<b>Significant Impact</b>	<b>Moderate Impact</b>	<b>Low Impact</b>
Social Need.			X
Effect on people's daily lives			X
Effect on economic, social and human rights			X
Strategic significance			X
Financial significance			X

**Please give details:**

The Charging Policy sets out NIEA's policy for revision of fees and charges and is expected to have a low impact regarding the five categories below.

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**4.2 In view of the considerations in Section 3 and 4 do you consider that this policy/legislation should be subject to a full EQIA? Please give reasons for your considerations. If you are unsure, please consult with affected groups and revisit the screening analysis accordingly. Yes/No/Unsure**

No, full EQIA not necessary

**Please give details:**

The result of the screening analysis considers that a full EQIA is not necessary, as there are no significant implications for equality of opportunity or community relations as a result of this policy.

**4.3 If an EQIA is considered necessary please comment on the priority and timing in light of the factors in table 4.1.**

**Please give details:**

Not applicable

**4.4 If an EQIA is considered necessary is any data required to carry it out/ensure effective monitoring?**

**Please give details:**

Not applicable

## **Section 5**

### **Endorsement**

I can confirm that the proposed policy has been screened for equality of opportunity and good relations implications and has been screened out for equality impact assessment.

**Signed:**



**Agency/Division: Strategy Unit  
Northern Ireland Environment Agency**

**Date: 24<sup>th</sup> November 2009**

**PLEASE FORWARD A COPY OF THE COMPLETED FORM TO:**

**DOE EQUALITY UNIT  
ROOM 413A  
CLARENCE COURT  
10-18 ADELAIDE STREET  
BELFAST  
BT2 8GB**

**QUERIES TO: ALEX BOYLE, EXT 41194  
[alex.boyle@doeni.gov.uk](mailto:alex.boyle@doeni.gov.uk)**

**LAURA McALEESE, EXT 40203  
[laura.mcaleese@doeni.gov.uk](mailto:laura.mcaleese@doeni.gov.uk)**

**Section 6**

**For Completion by Equality Unit**

**Date**

**Screening result recorded:** \_\_\_\_\_

**Placed on website:** \_\_\_\_\_

**Screening out completed:** \_\_\_\_\_

**Screening to be reconsidered:** \_\_\_\_\_

**Give reasons:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Agency/Division notified date:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### Main Groups Relevant to the Section 75 Categories

<u>Category</u>	<u>Main Groups</u>
Religious belief	Protestants; Catholics; people of non-Christian faiths; people of no religious belief
Political opinion	Unionists generally; Nationalists generally; members/supporters of any political party
Racial Group	White people; Chinese; Irish Travellers; Indians; Pakistanis; Bangladeshis; Black Africans; Black Caribbean people; people with mixed ethnic group
Gender	Men (including boys); women (including girls); trans-gendered people
Marital status	Married people; unmarried people; divorced or separated people; widowed people
Age	For most purposes, the main categories are: children under 18, people aged between 18-65, and people over 65. However, the definition of age groups will need to be sensitive to the policy under consideration
“Persons with a disability”	Disability is defined as: A physical or mental impairment, which has a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities as defined in Sections 1 and 2 and Schedules 1 and 2 of the Disability Discrimination Act 1995
“Persons with dependants”	Persons with personal responsibility for the care of a child; persons with personal responsibility for the care of a person with an incapacitating disability; persons with personal responsibility for the care of a dependant elderly person
Sexual orientation	Heterosexuals; bi-sexuals; gays; lesbians

## **Appendix 4: Freedom of Information Act 2000 – Confidentiality of Consultation Responses**

We may 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. We can only refuse to disclose information in exceptional circumstances. Before you submit your response please read the paragraphs below on confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department of the Environment in this case. This right of access to information includes information provided in response to a consultation. We cannot automatically consider as confidential information supplied to us in response to a consultation. However, we do 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 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 that information in connection with the exercise of any of its 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; and
- its acceptance of confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office at the following address:

Information Commissioner's Office  
51, Adelaide Street,  
Belfast BT2 8FE

T: 028 9026 9380

F: 028 9026 9388

E: [ni@ico.gsi.gov.uk](mailto:ni@ico.gsi.gov.uk)