

Consultation on amending options for the assessment of technical competence under the Northern Ireland Waste Management Licensing and Permitting Regime

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Department of
**Agriculture, Environment
and Rural Affairs**

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1. Introduction

The Waste and Contaminated Land (Northern Ireland) Order 1997 (the 1997 Order), supported by a number of pieces of subordinate legislation, transposes the key requirements of the [Waste Framework Directive](#). The requirement to protect the environment and human health was put in place by way of a number of measures including provisions that allow the Department (as the competent authority) to determine if the person controlling the waste (hereafter, the waste operator) is a fit and proper person to be doing so.

In order for someone to be considered a fit and proper person (for the purposes of holding a waste management licence and permits), amongst other things they must be technically competent. Currently in Northern Ireland, waste operators are able to demonstrate technical competence by obtaining relevant Operator Competence Certificate(s) (OCCs) from Waste Management Industry Training & Advisory Board ([WAMITAB](#)).

Whilst the fundamental policies in relation to the fit and proper person elements of waste management licensing and permitting will remain broadly the same, the proposed changes will update the options available to waste operators in Northern Ireland on how they may demonstrate that they have acceptable qualifications and/or experience required to be considered technically competent in order to hold a licence and/or permit. It is proposed to introduce an additional accredited provider of assurance of technical competence, Energy & Utility Skills Ltd ([EU Skills](#)).

2. Purpose

The purpose of this document is to consult upon proposed amendments to the Waste Management Licensing Regulations (Northern Ireland) 2003 in order to update the options available to those who need to comply with the technical competence element of the Fit and Proper Person test. The document:

- outlines the Department's proposal to add EU Skills as an additional accredited provider of assurance of technical competence in Northern Ireland;
- seeks views on this proposal, and
- in addition, seeks views on whether there are any other potential organisations which could act as assessors of technical competence in Northern Ireland for the purposes of waste management licensing and/or permitting.

3. Technical Competence

Current approach to assessing technical competence

Article 3(3)(b) of the 1997 Order requires that anyone operating under a waste management licence and/or permit must be technically competent to do so. Article 3(5) of the 1997 Order states – “Regulations may prescribe the qualifications and experience required of a person for the purposes of paragraph (3)(b)”. The relevant provisions were introduced by way of the Waste Management Licensing Regulations (Northern Ireland) 2003 (the 2003 Regulations). Further amendments were made to these provisions by the Waste Management Regulations (Northern Ireland) 2006 and the Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2015, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (in relation to ‘specified waste management activities’).

Regulations 3 to 5 of, and Schedule 1 to, the 2003 Regulations (as amended) prescribe the qualifications and experience that would deem a person to be technically competent. The Northern Ireland Environment Agency (NIEA) also issue guidance on the technical competence requirements for operators of authorised waste facilities

(<https://www.daera-ni.gov.uk/sites/default/files/publications/doe/waste-guidance-technical-competence-operators-waste-facilities-2015.pdf>).

This highlights that proof of technical competence will be required in respect of each person on whom the management of a site may be vested.

Currently in Northern Ireland, the Department recognises WAMITAB (Waste Management Industry Training & Advisory Board) as an accredited provider of technical competence assurance. The WAMITAB Operator Competence Scheme allows waste facilities to demonstrate they employ technically competent people with the knowledge and skills to ensure their waste sites are complying with the 2003 Regulations. As highlighted above, for the purposes of waste management licensing and/or permitting, those persons responsible for managing a site need to be qualified under the scheme. There are two parts to the scheme: **primary competence** where the technically competent person completes the qualification, units and/or training programmes required to manage their waste site. The second part is **continuing competence**, where the technically competent person must then pass an assessment every two years to demonstrate their technical competence is being kept up to date.

NIEA published a regulatory position statement in November 2017 on the continuing competence assessment. In it, NIEA outlined that it would take a pragmatic interim approach to continuing competence while the Northern Ireland specific test is not available. For more information about NIEA's regulatory position statement visit: <https://www.daera-ni.gov.uk/sites/default/files/publications/daera/RPS%20-%20Technical%20Competence%20Interim%20Position%20%281%29%20-%20November%202017.pdf>

Schedule 1 of the 2003 Regulations lists the WAMITAB qualifications and unit clusters (Operator Competence Certificates) applicable to different site activities in Northern Ireland. Revisions to the WAMITAB Operator Competence Scheme in 2016 meant new qualification codes were introduced.

The Department will also take this opportunity to update Schedule 1 of the 2003 Regulations to reflect the revised WAMITAB Operator Competence Certificate codes which came into effect on 1st April 2016. The full list of updated codes can be viewed here <https://wamitab.org.uk/competence/operator-competence/>. As these are minor amendments

with no policy impact, the Department is not seeking any views on these as part of this consultation process.

4. EU Skills

EU Skills received accreditation to operate in England and Wales as an approved provider of assurance of technical competence by Defra in 2009 and was approved by the Scottish Environment Protection Agency (SEPA) in 2012. Representatives of EU Skills have made contact with the Department advising that they wish to be considered as an alternative option for Northern Ireland waste operators in respect of the assessment of technical competence. In Northern Ireland, due to how the legislation is currently drafted, having an additional accredited provider of assurance of technical competence requires an amendment to the legislation.

The EU Skills' Scheme uses a management system approach to assess technical competence and requires waste operators to put in place a Competence Management System (CMS). The CMS enables operators to demonstrate technically competent management of licenced activities on the basis of corporate competence and employee individual competence.

The EU Skills CMS focuses on assessing the competence, skills, and experience of an organisation, its staff and the internal competence management systems as a whole, rather than solely assessing the technical competence of individuals.

To assess technical competence, EU Skills' Scheme Approval Bodies audit a waste operator to determine whether they have an acceptable technical competence management system in place or a Competence Management System (CMS). EU Skills describes a CMS as setting out the requirements in terms of the relevant qualifications; training; understanding; experience; skills; knowledge; behaviours and systems used by the waste operator and relevant staff – in line with the stipulations within the waste management licence.

If after the audit by a Scheme Approval Body, the waste operator is found not to have an acceptable Competent Management System (CMS) in place, the waste operator will need to address any non-conformances and corrective actions to achieve one.

Once the waste operator has an acceptable CMS in place they will achieve certification from the Scheme Approval Body. The certificate is recognition that their CMS enables the waste operator to demonstrate technical competence.

EU Skills Competence Management System Certificates are valid for three years, with surveillance visits required every 12 months. Each of the Scheme Approval Bodies has a process to enable the validity and scope of an Operator's Certificate to be checked. For example please find the link to Lloyds Register www.lr.org/en-gb/check-an-approval/

EU Skills Competence Management System is accredited by UKAS, the UK National Accreditation Body. Only Certification Bodies accredited by UKAS to ISO/IEC 17021-1: 2015 for the Competence Management Standard are recognised by Energy & Utility Skills as Scheme Approved Bodies.

The Department proposes to include EU Skills as an additional accredited provider of technical assurance in Northern Ireland.

5. Proposed Changes

Amendments will be made to the 2003 Regulations in order to provide for EU Skills to become an additional accredited provider of technical competence in Northern Ireland. The key changes are summarised below:-

- I. Regulation 5 of the 2003 Regulations will be amended to introduce EU Skills in addition to WAMITAB as an accredited provider of technical assurance in Northern Ireland. Schedule 1 to the 2003 Regulations establishes the qualifications required of a person if they are to be regarded as technically competent. The Schedule will be revised to add details of the relevant assurances which will have to be obtained in order to be considered technically competent by EU Skills.
- II. Schedule 1 of the 2003 Regulations will be revised to include the updated list of WAMITAB's Operator Competence Certificate codes.

The changes to the technical competence requirements in the 2003 Regulations will:

- provide waste operators with flexibility and additional options around the assessment of technical competence;
- helping businesses to continue to ensure compliance with legislation; and
- prevent pollution and potential danger to human health.

It also provides the waste industry with further options for a technical competence system that best suits their individual needs.

Question 1: Do you agree with the proposal to add EU Skills as an assessor of technical competence, for the purposes of waste management licensing and permitting in Northern Ireland? If not please explain why.

6. Other potential assessors of technical competence

As part of this consultation exercise the Department is also seeking to identify if there any other organisations which would be willing and able to act as assessors of technical competence in Northern Ireland for the purposes of waste management licensing and permitting.

If further organisations are identified or nominated, the Department will engage with them to gather evidence and assess their suitability to fulfilling this function.

Question 2: Are there any other bodies/organisations which would potentially be suitable to act as an assessor of technical competence in respect of waste management licensing and permitting in Northern Ireland? Please provide evidence to support any suggestions.

7. General information, timing and responses to this Consultation

Responses are invited via Citizen Space at: <https://www.daera-ni.gov.uk/consultations>

By email via: epgni@daera-ni.gov.uk

Or by post to: SUP and Waste Legislation Team, Klondyke, Cromac Avenue, Gasworks Business Park, Lower Ormeau Road, Belfast, BT7 2JA.

We would encourage an online response in order to limit any environmental impact.

Those Affected This is a public consultation, open to all who may have an interest in Waste Licencing and Permitting. It is hoped that many will take an interest in this consultation and provide feedback. Retailers, producers, those involved in environmental issues, local authorities and members of the public. All views are welcomed by the Department.

Duration This consultation will run for a period of 9 weeks. It will open on **15 November 2021** and close on **10 January 2022**.

8. After the consultation

Confidentiality 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 refuse to disclose information only in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.

Data Protection Section 8(e) of the Data Protection Act 2018 permits processing of personal data when necessary for an activity that supports or promotes democratic engagement. Information provided by respondents to this consultation exercise will be held and used for the purposes of the administration of this current exercise and subsequently disposed of in

accordance with the provisions of the Data Protection Act 2018 and UK General Data Protection Regulation.

The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority (the Department in this case). This right of access to information includes information provided 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 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 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 to the Information Commissioner.
- For further information about confidentiality of responses, please contact the Information Commissioner's Office: Email: ni@ico.org.uk Website: [Information Commissioner's Office](#)

For further information:

SUP and Waste Legislation Team
Klondyke
Cromac Avenue
Gasworks Business Park
Lower Ormeau Road
Belfast
BT7 2JA

Email: epgni@daera-ni.gov.uk
www.daera-ni.gov.uk



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