

ENVIRONMENTAL PROTECTION ACT 1990, sect. 37



NOTICE OF MODIFICATION OF WASTE MANAGEMENT LICENCE

To Cardiff Bay Development Corporation
of Baltic House, Mount Stuart Square, Cardiff. CF1 60H

WHEREAS on 30th March 1996 you were granted a Waste Management Licence by the* Council of the City of Cardiff (~~the Authority~~) relating to the disposal of controlled waste on land at the former municipal landfill site, Ferry Road, Grangetown, Cardiff.

[AND WHEREAS on 15th August 1996 you made application for the said conditions to be modified, accompanied by the prescribed fee payable under section 41 of the Environmental Protection Act 1990 ("the Act")]

NOTICE is HEREBY GIVEN that the Authority [~~grants the modification of~~][modifies] the said conditions as follows:-

Remove Schedule "B" and insert Schedule "B" as attached.



n.b. "The Authority" refers to the Environment Agency.

Such modification shall take effect on¹ Tuesday 17th September 1996 at 1200 hours

[IN the opinion of the Authority it is necessary for the purpose of preventing pollution of the environment or harm to human health that section 43(4) of the Environmental Protection Act 1990 should not apply.]¹

DATED

Environment Agency
South East Area Waste Regulation
Abacus House
St. Mellons Business Park
St. Mellons
Cardiff. CF3 0LT

(Address of Authority)

(Signed)
Designation Area Waste Regulation Manager
(the officer appointed for this purpose)

N.B.- The person served with this notice may under section 43 of the Act appeal against the Authority's decision to the Secretary of State within six months of the date of the decision or such longer period as the Secretary of State may allow. (See notes overleaf.)

[The person on whom this notice is served may also make application to the Secretary of State for a ruling as to whether the Authority has acted reasonably in including the above statement as to the non-application of section 43(4) of the Act.-See notes overleaf.]¹

* Insert name of Waste Regulation Authority.

¹ Insert date and time when modification takes effect.

¹This paragraph and note should be included if it is intended that the decision shall have effect even when the appeal is pending.

The Environmental Protection Act 1990 provides as follows: -

s.43(1) Where, except in pursuance of a direction given by the Secretary of State:-

- (a) an application for a licence or a modification of the conditions of a licence is rejected;
- (b) a licence is granted subject to conditions;
- (c) the conditions of a licence are modified;
- (d) a licence is suspended;
- (e) a licence is revoked under section 38 or 42 above;
- (f) an application to surrender a licence is rejected; or
- (g) an application for the transfer of a licence is rejected;

then, except in the case of an application for a transfer, the applicant for the licence or, as the case may be, the holder or former holder of it may appeal from the decision to the Secretary of State and, in the case of an application for a transfer, the proposed transferee may do so.

(2) Where an appeal is made to the Secretary of State -

- (a) The Secretary of State may refer any matter involved in the appeal to a person appointed by him for the purpose;
- (b) the Secretary of State may, instead of determining the appeal himself, direct that the appeal or any matter involved in it shall be determined by a person appointed by him for the purpose (who shall have the same powers as the Secretary of State);
- (c) if a party to the appeal so requests, or the Secretary of State so decides, the appeal shall be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held or held to any extent in private).

(3) Where, on such an appeal, the Secretary of State or other person determining the appeal determines that the decision of the authority shall be altered it shall be the duty of the authority to give effect to the determination.

(4) While an appeal is pending in a case falling within subsection (1)(c) or (e) above, the decision in question shall, subject to subsection (6) below, be ineffective; and if the appeal is dismissed or withdrawn the decision shall become effective from the end of the day on which the appeal is dismissed or withdrawn.

(5) Where an appeal is made in a case falling within subsection (1)(d) above, the bringing of the appeal shall have no effect on the decision in question.

(6) Subsection (4) above shall not apply to a decision modifying the conditions of a licence under section 37 above or revoking a licence under section 38 or 42 above in the case of which the notice effecting the modification or revocation includes a statement that in the opinion of the authority it is necessary for the purpose of preventing or, where that is not practicable, minimising pollution of the environment or harm to human health that that subsection should not apply.

(7) Where the decision under appeal is one falling within subsection (6) above or is a decision to suspend a licence, if, on the application of the holder or former holder of the licence, the Secretary of State or other person determining the appeal determines that the authority acted unreasonably in excluding the application of subsection (4) above or, as the case may be, in suspending the licence, then-

- (a) if the appeal is still pending at the end of the day on which the determination is made, subsection (4) above shall apply to the decision from the end of that day; and
- (b) the holder or former holder of the licence shall be entitled to recover compensation from the authority in respect of any loss suffered by him in consequence of the exclusion of the application of that subsection or the suspension of the licence;

and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be determined by arbitration or in Scotland by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties.

(8) Provision may be made by the Secretary of State by regulations with respect to appeals under this section and in particular

- (a) as to the period within which and the manner in which appeals are to be brought; and
- (b) as to the manner in which appeals are to be considered.

The Waste Management Licensing Regulations 1994 provide as follows:-

Notice of appeal

6.- (1) A person who wishes to appeal to the Secretary of State under section 43 or 66(5) of the 1990 Act (appeals to the Secretary of State from decisions with respect to waste management licences or from determinations that information is not commercially confidential) shall do so by notice in writing.

(2) The notice shall be accompanied by-

- (a) a statement of the grounds of appeal;
- (b) where the appeal relates to an application for a waste management licence or for the modification, surrender or transfer of a waste management licence, a copy of the appellant's application and any supporting documents;
- (c) where the appeal relates to a determination under section 66(2) or (4) of the 1990 Act that information is not commercially confidential, the information in question;
- (d) Where the appeal relates to an existing waste management licence (including a waste management licence which has been suspended or revoked), a copy of that waste management licence;
- (e) a copy of any correspondence relevant to the appeal;
- (f) a copy of any other document relevant to the appeal including, in particular, any relevant consent, determination, notice, planning permission, established use certificate or certificate of lawful use or development; and
- (g) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

(3) The appellant shall serve a copy of his notice of appeal on the waste regulation authority together with copies of the documents mentioned in paragraph (2) above.

(4) If the appellant wishes to withdraw an appeal, he shall do so by notifying the Secretary of State in writing and shall send a copy of that notification to the waste regulation authority.

Time limit for making an appeal

7.(1) Subject to paragraph (2) below, notice of appeal shall be given-

- (a) in the case of an appeal under section 43 of the 1990 Act, before the expiry of the period of 6 months beginning with-
 - (i) the date of the decision which is the subject of the appeal; or
 - (ii) the date on which the waste regulation authority is deemed by section 36(9), 37(6), 39(10) or 40(6) of the 1990 Act to have rejected the application;
- (b) in the case of an appeal under section 66(5) of the 1990 Act, before the expiry of the period of 21 days beginning with the date on which the determination which is the subject of the appeal is notified to the person concerned.

(2)

The Secretary of State may in relation to an appeal under section 43 of the 1990 Act at any time allow notice of appeal to be given after the expiry of the period mentioned in paragraph (1)(a) above.

