



Irish Waste Management Conference 2016

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A&L Goodbody

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- 1. EPA: Publication of Waste Enforcement Documents 2016**
- 2. EPA Prosecutions**
- 3. Financial Provision - update**
- 4. CJEU Judgments**

EPA: Publication of Waste Enforcement Documents 2016

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- Available at EPA offices and online on “Licence Details” page
- Uploaded 60 days after issue or receipt by EPA
- Licensee Public Response within 45 days of EPA Site Visit Report, to be published with Report
- Documents include Site Visit Reports, routine self-monitoring reports – not investigations, site closure reports
- Publications standards
 - Defamation
 - Data protection
 - Discrepancy

Dr Laura Burke, Irish Independent 28 November 2016

- 50% of all complaints re 11 facilities
- National Priority List will be published soon
- 11 will be named, 27 on candidate list.

“ The waste sector is dominating, and it is things like odours which have a significant impact on local populations. This year we have had 15 prosecutions and there’s another 32 cases on going with regard to sites. It’s up to sites themselves to bring themselves into compliance. If they don’t, we will take whatever steps are necessary, including prosecution or suspension of licences.”

EPA: Prosecutions

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- EPA Prosecutions since last conference.

Reg. No.	Respondents	Facility	Hearing Date	Total Fines & Costs Imposed
P0406-04	Blilieboro Foods Limited	Lear, Bailieborough, County Cavan	8 Dec 2015	€17,181.68
W01840-01	ENVA Ireland Limited	Clonminam Industrial Estate, Portlaoise, County Laoise	18 Dec 2015	€11,099.19
W1092-03	Rilta Environmental Limited	Block 402, Grants Drive, Greenogue Business Park, Rathcoole Co Dublin	11 April 2016	€19,635.99
P0320-02	T&J Standish (Roscrea) Limited and Directors	The Leap Castle, Roscrea County Offaly	23 May 2016	€2,288.00

Reg. No.	Respondents	Facility	Hearing Date	Total Fines & Costs Imposed
P0738-03	Shell E&P Ireland Limited	Shell E&P Ireland Limited Bellanaboy Bridge County Mayo	5 Sep 2016	€16,138.00
P0792-02	Nutricia Infant Nutrition Limited	Macroom, County Cork	14 Sep 2016	€14,181.59
W0205-01	Greyhound Recycling and Recovery and Directors	Crag Avenue Clondalkin Industrial Estate Clondalkin, Dublin 22	15 Sept 2016	€34,500.00

Themes:

Average fine/costs (if exclude Greyhound): c €15,000 [Poor box contribution: €20K Nutricia]

1. Directors pursued personally in 2/7 prosecutions, breaches of licence conditions, no environmental pollution: T J Standish, Greyhound.
2. Odour nuisance – 3/7 prosecutions. All District Court.
3. No. of prosecutions/average fine over last 3 years
 - 2014 – 9 Average fine €7,500
 - 2015 – 11 (9 to end November) Average fine €15,700 (excluding Jenzoph)
 - 2016 – 5 Average fine €15,000 (excluding Greyhound and Nutricia “Poor Box”)

EPA Financial Provision

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What is Financial Provision?

- The putting in place of an approved financial instrument or other provision

Who needs it?

- Licensees under the various EPA authorisation regimes (IED, IPC, waste & dumping at sea – so called ‘licenced activities’)

Why is it required?

- The EPA/the taxpayer should not have to pay for legacy liabilities

What is it for?

- To manage environmental liabilities from licenced activities:
 - › Arising from unforeseen ‘incidents’ (Environmental Liability Risk Assessment – “ELRA”)
 - › Arising from inevitable closure and site restoration (Closure Remediation & Aftercare Management Plan – “CRAMP”)

Implications for Licence Holders

Required Coverage

ELRA

CRAMP

Waste Companies

- Bond (banks and insurance companies)
- Parent company guarantee
- Environmental Liability Insurance

Bond

- Bank Bond e.g. Bank of Ireland, Citi Bank, Barclays, Deutsche Bank.
- Bond from insurance company eg ACE, AIG, Euler Hermes
- Rate 0.5% to 1.2%. NB: Bond amount
 - financial strength of operator
 - business relationship with financial institutions

Environmental Liability Insurance

Insurers:

- ACE, AIG approved
- Navigators and AXA in process

Key Issues:

- Cover for excess
- Business Interruption Loss: no dilution

- **Total Waste Recycling SRL – 25 November 2016**

A failure to notify of a change to a border crossing rendered amber list shipment illegal. NB language/translation issue.

- **Nutrivet D.O.O.E.L – 9 June 2016**

Incorrect or inconsistent information, even where not deliberate, on green list documentation rendered shipment illegal.

- **Edilizia Mastrodonato SRL – 28 July 2016**

Backfilling of a quarry a “recovery” operation only if the backfilling is required, and the material is suitable i.e. non-hazardous and inert.

NB Purposive approach adopted.

THANK YOU



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