
STATUTORY INSTRUMENTS

2016 No. 1154

The Environmental Permitting
(England and Wales) Regulations 2016

PART 7

Miscellaneous provisions

CHAPTER 1

Interpretation

Interpretation of this Part

70. In this Part—

“existing” means in force at the relevant time;

“relevant time” means immediately before the coming into force of these Regulations.

CHAPTER 2

Death of sole operator

Death of sole operator

71.—(1) This regulation applies if—

(a) an environmental permit authorising the operation of a regulated facility is held by one individual (“A”), and

(b) A dies.

(2) On the death of A, the environmental permit—

(a) forms part of A’s personal estate,

(b) vests in A’s personal representatives,

(c) continues to have effect subject to the conditions that applied at the time of A’s death, and

(d) must be read as if it contained the following condition—

“As soon as is practicable after the death of the operator, the personal representatives of the operator must notify the regulator that the environmental permit has vested in them.”.

(3) The environmental permit ceases to have effect 6 months after the day on which A dies, unless, by that time—

(a) the permit has been transferred under regulation 21, or

(b) the regulator has received from A’s personal representatives a duly-made application under regulation 21(1) for the transfer of the permit, and the application has not been withdrawn or finally determined.

(4) If paragraph (3)(b) applies, the environmental permit continues in effect until the application—

- (a) is withdrawn, or
- (b) on determination, is refused.

CHAPTER 3

Repeal, revocations, saving and amendments

Repeal

- 72.—(1) The 1993 Act, except for the provisions referred to in paragraph (2), is repealed.
- (2) Those provisions are—
- (a) paragraph 5 of Schedule 4,
 - (b) section 49(1) so far as it relates to that paragraph, and
 - (c) section 51.

Revocations

- 73.—(1) The instruments in Schedule 28 (revocations) are revoked to the extent specified.
- (2) In provisions specified as not revoked in Schedule 28, any references to provisions of the 2007 Regulations or the 2010 Regulations are to be read as references to the equivalent provisions of these Regulations.

Saving

- 74.—(1) Despite the revocation of regulation 44 of the End-of-Life Vehicles Regulations 2003(1) by the 2007 Regulations, any modification to a waste management licence that continued in effect under the 2007 Regulations and had effect at the relevant time continues to have effect under these Regulations.
- (2) In paragraph (1), “waste management licence” means a licence granted under section 35 of the 1990 Act.

Consequential amendments

75. Schedule 29 (consequential amendments) has effect.

Amendment of the Transfrontier Shipment of Waste Regulations 2007

76. For regulation 16 of the Transfrontier Shipment of Waste Regulations 2007(2), substitute—

“The Waste (England and Wales) Regulations 2011

16. The reference to a waste management plan in regulation 7 of the Waste (England and Wales) Regulations 2011(3) includes a waste management plan made under this Part.”

(1) S.I. 2003/2635, amended by S.I. 2007/3538; there are other amending instruments but none is relevant.
(2) S.I. 2007/1711, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(3) S.I. 2011/988, to which there are amendments not relevant to these Regulations.

CHAPTER 4

Transitional provisions

Transitional provisions: general

77.—(1) Anything being done under the 2010 Regulations at the relevant time is taken as being done under these Regulations.

(2) Anything done under the 2010 Regulations continues to have effect but is taken to have been done under these Regulations on the date on which it was done under the 2010 Regulations, including (but not limited to) the following—

- (a) an existing enforcement notice under the 2010 Regulations is taken to be an enforcement notice;
- (b) an existing suspension notice under the 2010 Regulations is taken to be a suspension notice;
- (c) an existing revocation notice under the 2010 Regulations is taken to be a revocation notice;
- (d) an existing landfill closure notice under the 2010 Regulations is taken to be a landfill closure notice;
- (e) an existing prohibition notice under the 2010 Regulations is taken to be a prohibition notice;
- (f) an application for the grant, variation, transfer or surrender of an environmental permit made under the 2010 Regulations that has not been determined by the relevant time is taken to be made under these Regulations;
- (g) a decision made, or deemed to have been made, by a regulator or appropriate authority under the 2010 Regulations is taken to be made under these Regulations;
- (h) an existing direction given, or deemed to have been given, to a regulator by the appropriate authority under the 2010 Regulations is taken to be given under these Regulations;
- (i) a notification given under the 2010 Regulations that has not taken effect by the relevant time is taken to be given under these Regulations;
- (j) an appeal made under the 2010 Regulations that has not been determined by the relevant time is taken to be made under these Regulations, with the notice of appeal taken to be given on the date on which the appeal was made under the 2010 Regulations.

(3) An environmental permit under the 2010 Regulations in force at the relevant time—

- (a) becomes an environmental permit authorising the operation of a regulated facility under these Regulations, with references to provisions of the 2007 Regulations or the 2010 Regulations taken to be references to the equivalent provisions of these Regulations, and
- (b) has effect subject to any conditions that applied to it at the relevant time.

(4) An appeal may be made under these Regulations against a notice mentioned in paragraph (2)(a) to (e) or a decision mentioned in paragraph (2)(g) if, by the relevant time, the time for making an appeal under the 2010 Regulations had not expired, with the applicable time limit for giving notice of appeal running from the date on which the notice was served, or the decision was made, under the 2010 Regulations.

(5) Despite paragraphs (1) and (2), an exemption under paragraph 17 of Section 2 of Chapter 3 of Part 1 of Schedule 3 of the 2010 Regulations (crushing waste fluorescent tubes (T17)) ceases to have effect.

Public registers

78.—(1) Any information that, at the relevant time, was contained in a public register maintained by a regulator under the 2010 Regulations, or was deemed to be information kept on that register, is taken to be information contained in the public register maintained by the regulator under these Regulations.

(2) Any information that, at the relevant time, was within a regulator’s possession for the purposes of regulation 46 of the 2010 Regulations but was not entered on a public register under those Regulations is taken to be in the regulator’s possession for the purposes of these Regulations and must be entered on the register as soon as reasonably practicable.

(3) Any information excluded from a public register pursuant to an existing direction under regulation 47(1) of the 2010 Regulations is taken to be notified under regulation 47(2) of these Regulations.

Site plans not required for existing permits etc.

79. Regulation 14(4) does not apply in relation to a regulated facility to which, at the relevant time, regulation 70 of the 2010 Regulations applied.

CHAPTER 5**Review****Review: England**

80.—(1) The Secretary of State, in relation to England, must from time to time—

- (a) carry out a review of the regulatory provisions in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) In carrying out a review of any regulatory provision which implements an obligation in any of the following Directives, the Secretary of State must have regard to how the obligation is implemented in other member States—

- (a) the Asbestos Directive,
- (b) the Basic Safety Standards Directive,
- (c) the Batteries Directive,
- (d) the End-of-Life Vehicles Directive,
- (e) the Energy Efficiency Directive,
- (f) the Groundwater Directive,
- (g) the HASS Directive,
- (h) the Industrial Emissions Directive,
- (i) the Landfill Directive,
- (j) the Mining Waste Directive,
- (k) PVR I,
- (l) PVR II,
- (m) the Waste Framework Directive,
- (n) the Water Framework Directive, and
- (o) the WEEE Directive.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provisions,
 - (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provisions.
- (4) The first report under this regulation must be published before the end of December 2019.
- (5) Subsequent reports under this regulation must be published at intervals not exceeding 5 years.
- (6) In this regulation, “regulatory provisions” has the meaning given in section 32(4) of the Small Business, Enterprise and Employment Act 2015(4).