
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Environmental Permitting
(England and Wales) Regulations 2007

PART 2

Environmental Permits

CHAPTER 1

Application of these Regulations to the Crown and requirement for an environmental permit

Application of these Regulations to the Crown

11. Schedule 4 (application of these Regulations to the Crown) has effect.

Requirement for an environmental permit

12. No person may operate a regulated facility except under and to the extent authorised by an environmental permit.

CHAPTER 2

Grant of an environmental permit

Grant of an environmental permit

13.—(1) On the application of an operator, the regulator may grant to that operator a permit (in these Regulations, an “environmental permit”) authorising the operation of a regulated facility.

(2) Part 1 (grant, variation, transfer and surrender of environmental permits) of Schedule 5 applies in relation to an application for the grant of an environmental permit.

Content and form of an environmental permit

14.—(1) An environmental permit must specify—

- (a) every regulated facility to which it relates, and
- (b) the person authorised to operate that regulated facility.

(2) An environmental permit may be in electronic form.

(3) An environmental permit authorising the operation of a regulated facility, other than mobile plant, must include a map, plan or other description of the site showing the geographical extent of the site of the facility.

(4) If there is more than one regulated facility on the site, the map, plan or other description may show only the combined extent of all the facilities.

Conditions in relation to certain land

15.—(1) Conditions in an environmental permit may require the operator to carry out works or do other things in relation to land which he is not entitled to do without obtaining the consent of another person.

(2) If an environmental permit contains such a condition, the person whose consent is required must grant the operator such rights as are necessary to enable the operator to comply with the condition.

(3) Part 2 (compensation in relation to conditions affecting certain interests in land) of Schedule 5 applies where such rights are granted.

Mobile plant operating on the site of another regulated facility: conflict of permit conditions

16. If—

- (a) an environmental permit (“permit A”) authorises the operation of mobile plant on the site of a regulated facility the operation of which is authorised by a separate environmental permit (“permit B”); and
- (b) there is an inconsistency between the requirements imposed by permit A and those imposed by permit B,

the requirements imposed by permit B prevail.

Single site permits etc.

17. An environmental permit may authorise the operation by the same operator—

- (a) on the same site of more than one regulated facility, other than a Part B installation or Part B mobile plant;
- (b) on the same site of more than one Part B installation;
- (c) of more than one mobile plant; or
- (d) of more than one standard facility (other than a standard facility to which the IPPC Directive applies),

but may not otherwise authorise the operation of more than one regulated facility.

Consolidation of an environmental permit

18.—(1) Paragraph (2) applies if there is more than one environmental permit which authorises—

- (a) the operation of mobile plant by the same operator;
- (b) the operation of standard facilities, not being standard facilities to which the IPPC Directive applies, by the same operator; or
- (c) in any other case, the operation of regulated facilities on the same site by the same operator.

(2) The regulator may replace the environmental permits with a consolidated environmental permit—

- (a) applying to the same regulated facilities; and
- (b) subject to the same conditions as the permits being replaced.

(3) The regulator may replace an environmental permit which has been varied with a consolidated environmental permit subject to the same conditions.

Subsistence of an environmental permit

19. Once granted an environmental permit continues in force until—
- (a) it is revoked in whole in accordance with regulation 22;
 - (b) it is surrendered in whole in accordance with—
 - (i) regulation 24, or
 - (ii) regulation 25 and Part 1 of Schedule 5; or
 - (c) it is replaced with a consolidated permit in accordance with—
 - (i) regulation 18(2),
 - (ii) regulation 22(5),
 - (iii) paragraph 19(2) of Part 1 of Schedule 5.

CHAPTER 3

Variation, transfer, revocation and surrender of an environmental permit

Variation of an environmental permit

20.—(1) The regulator may vary an environmental permit on the application of the operator or on its own initiative.

(2) But a variation made under paragraph (1) must not reduce the extent of the site of a regulated facility.

(3) Paragraph (2) does not apply to Part B installations.

(4) Part 1 (grant, variation, transfer and surrender of environmental permits) of Schedule 5 applies in relation to an application to vary an environmental permit or a proposal to vary an environmental permit on the initiative of the regulator under paragraph (1).

Transfer of an environmental permit

21.—(1) The regulator may transfer an environmental permit in whole or in part from the operator to another person on the joint application of the operator and that other person.

(2) Part 1 (grant, variation, transfer and surrender of environmental permits) of Schedule 5 applies in relation to the transfer of an environmental permit in whole or in part.

(a) an enforcement notice is in force in respect of an environmental permit; and

(b) the permit is transferred to another person, either in whole or in part,

the duty to comply with the enforcement notice is also transferred to the other person to the extent that it relates to the permit or part transferred.

Revocation of an environmental permit: general

22.—(1) The regulator may revoke an environmental permit in whole or in part.

(2) If the regulator revokes a permit in part, it may vary the permit conditions to the extent that it considers necessary to take account of the revocation.

(3) Where the regulator decides to revoke an environmental permit it must serve a notice on the operator specifying—

(a) the reasons for the revocation;

(b) in the case of a partial revocation—

(i) the extent to which the environmental permit is being revoked, and

- (ii) any variation to the conditions of the environmental permit; and
 - (c) the date on which the revocation will take place, which must not be less than 20 working days from the date on which the notice is served.
- (4) Unless the regulator withdraws a revocation notice, an environmental permit ceases to have effect on the date specified in the notice—
- (a) in the case of a revocation in whole, entirely; or
 - (b) in the case of a partial revocation, to the extent of the part revoked.
- (5) In the case of a partial revocation, the regulator may replace the environmental permit with a consolidated environmental permit reflecting the change.
- (6) If the regulator issues such a consolidated permit—
- (a) it must at the same time serve a notice on the operator specifying any variation to the permit conditions; and
 - (b) only the variations specified are subject to the right of appeal in regulation 31(1)(b).

Revocation of an environmental permit: steps to be taken after the revocation takes effect

23.—(1) This paragraph applies where the regulator has decided to revoke an environmental permit and it considers that, after the revocation takes effect, it is appropriate for the operator to take steps—

- (a) to avoid a pollution risk resulting from the operation of the regulated facility; or
 - (b) to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation.
- (2) But this paragraph does not apply in relation to a Part B installation or Part B mobile plant.
- (3) If the operator is already required to take the steps mentioned in paragraph (1) under the environmental permit, the revocation notice must specify the regulator’s view under paragraph (1) and state that paragraph (4) applies.
- (4) The environmental permit continues to have effect to the extent that it requires the steps to be taken until the regulator issues a certificate stating that it is satisfied that all the steps have been taken.
- (5) If the operator is not already required to take the steps mentioned in paragraph (1) under the environmental permit, the revocation notice must specify the regulator’s view under paragraph (1) and the steps to be taken.
- (6) If paragraph (5) applies, unless the regulator issues a certificate stating that it is satisfied that all the steps have been taken, the steps must be treated as if they were conditions of an environmental permit for the purposes of—
- (a) regulation 20;
 - (b) regulation 36; and
 - (c) the offence of failing to comply with or contravening a condition in regulation 38(1)(b).

Notification of the surrender of an environmental permit

24.—(1) This regulation applies to—

- (a) an environmental permit for mobile plant;
- (b) an environmental permit for a Part B installation; and
- (c) any part of an environmental permit which relates to an activity falling within Part A(2) of section 5.1 of Part 2 of Schedule 1.

(2) An operator may surrender an environmental permit to which this regulation applies, in whole or in part, by notifying the regulator of the surrender.

(3) A notification must—

- (a) be made on the form provided by the regulator;
- (b) include such information as is specified in the form; and
- (c) specify the date on which the surrender is to take place, which must not be less than 20 working days from the date on which the notification is given.

(4) Subject to paragraph (7), the environmental permit ceases to have effect on the date specified in the notification to the extent specified there.

(5) Paragraphs (6) and (7) apply to a partial surrender if the regulator considers it necessary to vary the environmental permit conditions to take account of that surrender.

(6) The regulator must serve a notice on the operator specifying—

- (a) the regulator's view under paragraph (5);
- (b) the variation; and
- (c) the date the variation takes effect.

(7) If the date specified in the notice under paragraph (6)(c) is later than the date specified in the notification under paragraph (3), the variation and partial surrender both take effect on the later date.

Application to surrender an environmental permit

25.—(1) This regulation applies to the surrender of an environmental permit to which regulation 24 does not apply.

(2) An operator may surrender an environmental permit to which this regulation applies, in whole or in part, by application to the regulator.

(3) Part 1 (grant, variation, transfer and surrender of environmental permits) of Schedule 5 applies in relation to an application to surrender an environmental permit in whole or in part.

CHAPTER 4

Standard rules

Preparation and revision of standard rules

26.—(1) A rule-making authority may prepare standard rules for such regulated facilities as are described in those rules.

(2) In preparing or revising standard rules the authority must consult—

- (a) such persons or bodies as it considers are representative of the interests of communities likely to be affected by, or persons operating, the regulated facilities described in the rules; and
- (b) such other persons as it considers are likely to be affected by or have an interest in the rules.

(3) But the duty in paragraph (2) does not apply in relation to revisions which comprise only minor administrative changes.

(4) The authority must keep under review all standard rules published by it under this regulation and revise those rules when it considers necessary.

(5) The authority must publish on its website all standard rules prepared or revised by it under this regulation.

(6) The duty in paragraph (2) may be satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

Standard rules as conditions of an environmental permit

27.—(1) This regulation applies where a rule-making authority has published standard rules under regulation 26(5).

(2) At the request of the operator of a standard facility the regulator may include in the environmental permit authorising the facility a term providing that the relevant rules are conditions of the permit.

(3) If the regulator includes such a term, the relevant rules are conditions of the permit for the purposes of these Regulations, but there is no right of appeal under regulation 31 in relation to such a condition or the relevant rules.

(4) In this regulation “relevant rules” means the standard rules which apply to the standard facility.

Notification of revisions of standard rules

28.—(1) This regulation applies where the rule-making authority proposes to revise standard rules under regulation 26(4).

(2) Before the rule-making authority complies with regulation 26(5), the regulator must notify any operator who holds a relevant environmental permit—

- (a) of the proposed revisions;
- (b) of the date when the revised rules will be published, which must not be less than 3 months from the date the notification is served; and
- (c) that on this date the revised rules will become conditions of the environmental permit.

(3) But the authority may publish the revised rules before 3 months from the date the notification is served if the revisions comprise only minor administrative changes.

(4) The revised rules take effect when published under regulation 26(5).

(5) In this regulation “relevant environmental permit” means an environmental permit which will be affected by the proposed revisions.

Revocation of standard rules

29. The rule-making authority may revoke standard rules, but before doing so must consult the persons and bodies referred to in regulation 26(2).

Variation of an environmental permit: revocation of standard rules

30.—(1) This regulation applies to an environmental permit which includes a standard rules term if the standard rules applying by virtue of that term have been revoked by the regulator.

(2) The revoked rules continue to have effect until the regulator varies the permit under paragraph (3).

(3) As soon as reasonably practicable after the revocation of the rules, the regulator must vary the permit so as to—

- (a) remove the standard rules term; and
- (b) include such alternative conditions as it considers appropriate.

(4) In this regulation, “standard rules term” means a term of the type mentioned in regulation 27(2).

CHAPTER 5

Appeals in relation to environmental permits

Appeals to an appropriate authority

31.—(1) Subject to paragraphs (2) and (3), the following persons may appeal to the appropriate authority—

- (a) a person whose application—
 - (i) for the grant of an environmental permit,
 - (ii) to vary an environmental permit,
 - (iii) to transfer an environmental permit in whole or in part, or
 - (iv) to surrender an environmental permit in whole or in part,is refused;
- (b) a person who is aggrieved by an environmental permit condition imposed—
 - (i) following an application for the grant of an environmental permit,
 - (ii) following an application to vary an environmental permit,
 - (iii) pursuant to a regulator initiated variation, or
 - (iv) to take account of the transfer in whole or in part or the partial surrender of an environmental permit;
- (c) a person who is aggrieved by the deemed withdrawal of a duly-made application under paragraph 4(2) of Schedule 5;
- (d) a person who is aggrieved by a decision not to authorise the closure procedure mentioned in Article 13 of the Landfill Directive after a request referred to in Article 13(a)(ii) of that Directive;
- (e) a person on whom a revocation notice, enforcement notice, suspension notice or landfill closure notice is served.

(2) Paragraph (1) does not apply where the relevant decision or notice implements a direction of the appropriate authority given under—

- (a) regulation 61(1);
- (b) regulation 62(1);
- (c) regulation 62(6); or
- (d) paragraph (4).

(3) Paragraph (1)(e) does not apply to the extent that a revocation notice or suspension notice is served because of a failure to pay a charge prescribed in a scheme made under regulation 65(1) in respect of the subsistence of an environmental permit.

(4) When determining an appeal in respect of a decision the appropriate authority has the same powers as the regulator had when making the decision.

(5) Schedule 6 (appeals to the appropriate authority) has effect in relation to the making and determination of appeals under this regulation.

(6) On determining an appeal under paragraph (1) in respect of a notice the appropriate authority—

- (a) may quash or affirm the notice; and
- (b) if it affirms, may do so in its original form or with such modifications as it thinks fit.

(7) On the determination of an appeal against a decision, unless the appropriate authority affirms the decision the authority must direct the regulator to give effect to its determination when sending a copy of it to the regulator under paragraph 6(2) of Schedule 6.

(8) An appeal under paragraph (1) does not have the effect of suspending the decision or notice in question.

(9) But where an appeal is brought against a revocation notice, the revocation does not take effect until the final determination or the withdrawal of the appeal.