

SCHEDULE 9

Regulation 35(c)

Provision in relation to waste operations

Application

1. This Schedule applies in relation to every waste operation.

Grant of an environmental permit: requirement for prior planning permission

2.—(1) Following an application under regulation 13(1), the regulator must not grant an environmental permit in relation to a relevant waste operation if use of the site for carrying on that operation requires a planning permission and no such permission is in force.

(2) In this paragraph—

- (a) “planning permission” means planning permission under the Town and Country Planning Act 1990⁽¹⁾ and includes—
 - (i) a certificate under section 191 of that Act⁽²⁾, and
 - (ii) an established use certificate under section 192 of that Act, as originally enacted, which continues to have effect for the purposes of subsection (4) of that section;
- (b) “relevant waste operation” means—
 - (i) a waste operation that is carried on other than at an installation or mobile plant, or
 - (ii) a specified waste management activity.

(3) In sub-paragraph (2)(b), “specified waste management activity” means one of the following activities—

- (a) the disposal of waste in a landfill falling within Section 5.2 of Part 2 of Schedule 1;
- (b) the disposal of waste falling within Section 5.3 of Part 2 of Schedule 1;
- (c) the recovery of waste falling within Part A(1)(c)(i), (ii), (v) or (vii) of Section 5.4 of Part 2 of Schedule 1.

(4) But “specified waste management activity” does not include any activity specified in sub-paragraph (3)(b) or (c) if that activity—

- (a) is carried on at the same installation as a Part A(1) activity not specified in sub-paragraph (3); and
- (b) is not the activity which constitutes the primary purpose for operating the installation.

Exercise of relevant functions: all waste operations

3. The regulator must exercise its relevant functions—
 - (a) for the purposes of implementing Article 4 of the Waste Framework Directive; and
 - (b) so as to ensure that the records referred to in Article 14 of the Waste Framework Directive are kept and made available to the regulator on request.

Exercise of relevant functions: disposal of waste

- 4.—(1) The regulator must exercise its relevant functions in relation to disposal of waste—

(1) 1990 c. 8.

(2) Section 191 was substituted by the Planning and Compensation Act 1991 (c. 34), section 10(1).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK
Statutory Instrument: The Environmental Permitting (England and Wales) Regulations 2007 No. 3538

- (a) for the purposes of implementing Article 5 of the Waste Framework Directive, ignoring the words “in cooperation with other Member States where this is necessary or advisable”;
 - (b) for the purposes of implementing, so far as material, any waste management plan; and
 - (c) so as to ensure that the requirements in the second paragraph of Article 9(1) of the Waste Framework Directive are met.
- (2) In this paragraph, “waste management plan” has the meaning given in Schedule 20.