
DRAFT STATUTORY INSTRUMENTS

2009 No.

The Groundwater (England and Wales) Regulations 2009

PART 3

Discharge of a hazardous substance or non-hazardous pollutant

Discharge of a hazardous substance or non-hazardous pollutant

13.—(1) It is an offence to cause or knowingly permit the discharge of any hazardous substance or non-hazardous pollutant in circumstances that might lead to an indirect input of that hazardous substance or non-hazardous pollutant into groundwater unless it is carried on under and in accordance with a permit granted by the Agency under this regulation.

But this does not apply in relation to—

- (a) a discharge that requires a discharge consent within the meaning of section 91(8) of the Water Resources Act 1991;
- (b) the operation of a regulated facility under the Environmental Permitting (England and Wales) Regulations 2007;
- (c) a disposal that requires an authorisation under section 13 of the Radioactive Substances Act 1993; or
- (d) the keeping or use of mobile radioactive apparatus that requires a registration under section 10 of that Act.

(2) An operator of a highway drain (or, until 1st January 2012, a person using a domestic septic tank or sewage treatment plant with a daily discharge of less than 2m³) does not commit an offence under this regulation unless the Agency has served a notice on that person under regulation 18 in relation to that discharge, and the operator has failed to comply with that notice.

(3) In this regulation “highway drain” means a drain which a highway authority or other person is entitled to keep open by virtue of section 100 of the Highways Act 1980(1).

Application of the Water Resources Act 1991

14. Section 88(1) of the Water Resources Act 1991(2) (defences in relation to authorised discharges) applies in relation to a permit under regulation 13 as if the reference to the Environmental Permitting (England and Wales) Regulations 2007 included a reference to these Regulations.

Transfer of a permit granted under regulation 13

15. Paragraph 11 of Schedule 10 to the Water Resources Act 1991 (transfer of discharge consents) applies in relation to a permit granted under regulation 13 as if—

- (a) any reference to a consent included a reference to such a permit;

(1) 1980 c. 66.
(2) 1991 c. 57.

- (b) references to paragraphs 3 and 6 of that Schedule were references to regulation 13; and
- (c) references to carrying on or making discharges were references to carrying on the activities regulated by the permit.

Grant of a permit under regulation 13

- 16.**—(1) An application for a permit under regulation 13 must be made to the Agency.
- (2) If in any case the Agency considers that there are special reasons why the application should be advertised, it may require the applicant to advertise the application in a specified manner.
- (3) A permit may be subject to conditions.
- (4) If the Agency refuses an application for a permit it must give its reasons.
- (5) The Agency may by notice in writing at any time vary or revoke the permit, but the notice must give the Agency's reasons.
- (6) A revocation does not have effect until three months from the service of the notice.
- (7) A person may within three months appeal against a refusal, variation or revocation of a permit to the Secretary of State or the Welsh Ministers as appropriate, but, unless the Secretary of State or the Welsh Ministers direct otherwise—
- (a) a variation has effect pending the appeal, and
 - (b) a revocation does not have effect pending the appeal.