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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 2 of the Pollution Prevention and Control Act 1999 (1999 c. 24). They implement in England and Wales the amendments to the public participation provisions in Directive 96/61/EC made by Article 4 of Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (the Public Participation Directive).

The requirements of Directive 96/61/EC concerning integrated pollution prevention and control have been implemented in England and Wales by means of the Pollution Prevention and Control Regulations (S.I.2000/1973) (the 2000 Regulations).

These Regulations amend regulation 2 and the procedures for public participation in Schedules 4 (Grant of Permits) and 7 (Variation of Conditions) to the 2000 Regulations in order to implement the additional public participation requirements in paragraphs 1 to 3, 5 and 6 of article 4 of the Public Participation Directive. These requirements apply to all applications for permits to operate new Part A installations and to variations authorising substantial changes in the operation of a Part A installation or variations resulting from a review by the regulator of a Part A installation under regulation 15(2)(a) of the 2000 Regulations.

Regulation 2(2) inserts a new paragraph (2C) in regulation 2 of the 2000 Regulations (Interpretation: general) to expand the definition of “substantial change in operation” as required by paragraph 1(a) of article 4 of the Public Participation Directive.

Regulation 2(3) amends Schedule 4 to the 2000 Regulations, which sets out the procedures for applications and determination of permits under regulation 10 of those Regulations. In particular—

- (i) Regulation 2(3)(a) adds a new sub-paragraph (oo) (relating to alternatives) to the list of information specified in paragraph 1 of Schedule 4 which needs to be provided with the application;
- (ii) Regulations 2(3)(b) to (l) extend the public participation requirements in Parts 1 and 2 of Schedule 4 to apply the new requirements in article 4 of the Public Participation Directive to applications for permits to operate new Part A installations, within the meaning of paragraph 6 of Part 1 of Schedule 3 to the 2000 Regulations.
- (iii) Regulations 2(3)(b) and (c) provide for additional advertisement requirements in respect of applications for permits to operate new Part A installations.
- (iv) Regulations 2(3)(f) to (l) amend the provisions in Parts 1 and 2 of Schedule 4 to provide for a new “draft determination” stage, which includes additional obligations to advertise, to inform other member States in the case of installations with transboundary effects, to allow for representations from interested parties, and to provide or make available the additional information specified in Annex V to the Public Participation Directive.

Regulation 2(4) amends Schedule 7 to the 2000 Regulations, which sets out the procedures for the variation of conditions of permits under regulation 17 of those Regulations. In particular—

- (i) Regulations 2(4)(a) to (i) extend the public participation requirements in Part 2 of Schedule 7 (Determination of Applications for Variations and Variation Notices) to apply the new requirements in article 4 of the Public Participation Directive to—
  - (aa) variations authorising substantial changes in the operation of Part A installations; and

*Status: This is the original version (as it was originally made).*

- (bb) variations in the conditions of a permit to operate a Part A installation proposed by the regulator and resulting from a review under regulation 15(2)(a) of the 2000 Regulations;
- (ii) Regulation 2(4)(a) amends paragraph 4 of Schedule 7 to the 2000 Regulations to require the regulator to furnish the operator with additional information as well as to provide for additional advertisement requirements in respect of variations affecting the operation of Part A installations;
- (iii) Regulations 2(4)(b) to (i) insert, for variations affecting Part A installations, a new “post-advertisement” stage in respect of variations proposed by the regulator and a “draft variation” stage in respect of applications for variations, including, as in the case of applications for permits to operate Part A installations, additional obligations in relation to advertising, the provision of information to other member States in the case of installations with transboundary effects, new representation requirements, and the obligation to provide or make available information specified in Annex V to the Public Participation Directive.

Regulation 2(5) inserts a new sub-paragraph to Schedule 9 (Registers) to require the regulator to include in the register the information resulting from the new public participation requirements specified by these Regulations.

Regulation 3 sets out transitional provisions clarifying that the requirements in these Regulations do not apply in relation to applications for permits or variations or proposed variations in respect of which the operator applied, or the regulator notified the operator, before the date of coming into force of these Regulations.

A regulatory impact assessment and a transposition note relating to paragraphs 1 to 3, 5 and 6 of article 4 of the Public Participation Directive have been prepared and copies can be obtained from AEQ Division, Department for Environment, Food and Rural Affairs, Ashdown House, 123 Victoria Street, London SW1E 6DE.