

**EXPLANATORY MEMORANDUM TO  
THE WASTE AND AIR POLLUTION (MISCELLANEOUS AMENDMENTS)  
REGULATIONS 2007**

**2007 No. 3476**

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 This instrument makes minor amendments to the Waste Management Licensing Regulations 1994, the Hazardous Waste (England and Wales) Regulations 2005 and the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007, in order to correct drafting errors in the latter two instruments.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 This instrument makes amendments to correct the points reported to Parliament by the Joint Committee on Statutory Instruments in relation to the Hazardous Waste (England and Wales) Regulations 2005 (S.I. 2005/894) in its Fourth Report of Session 2005–06. It also amends the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007 (S.I. 2007/2325), to correct the point reported to Parliament by the Joint Committee on Statutory Instruments in its First Report of Session 2007–08.

- 3.2 This instrument is made using section 2(2) of the European Communities Act 1972. In relation to the amendments to the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007 it was considered to be inappropriate to use the powers contained in section 2 of the Pollution Prevention and Control Act 1999 (under which the 2007 Regulations were made in part), given the minor nature of the amendments and the consultation procedure that would otherwise be required by the use of that section.

4. **Legislative Background**

- 4.1 This instrument is being made to correct drafting errors arising from the Hazardous Waste (England and Wales) Regulations 2005 and the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007. It gives effect to an undertaking given by the Department to the Joint Committee on Statutory Instruments to correct the former instrument.

5. **Territorial Extent and Application**

- 5.1 Regulations 2 and 3 (which amend the Hazardous Waste (England and Wales) Regulations 2005 and the Waste Management Licensing Regulations 1994) apply in

England. Regulation 4 (which amends the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007) extends to all of the United Kingdom.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 This instrument makes a number of minor amendments to three sets of Regulations, in order to correct errors in drafting.

7.2 The Hazardous Waste (England and Wales) Regulations 2005 (“the 2005 Regulations”) contains a number of restrictions and obligations relating to hazardous waste and notifications. It also contains permissive provisions and provisions requiring the payment of fees. Regulation 65 provides that it is an offence for a person to fail to comply with a number of specified regulations. However, it should not have been made a separate offence to contravene three particular specified regulations. The requirements of one of those regulations were already incorporated in duties and prohibitions covered by other regulations (the contravention of which was an offence). The second specified regulation was purely permissive, and the third contained procedural requirements, including certain obligations of the Environment Agency and a requirement that a person giving a notification must pay a fee. It was inappropriate in these latter two cases to make it an offence to contravene them. This instrument corrects these points by removing these three specified regulations from the list of offences in regulation 65 (regulation 3(2)).

7.3 The 2005 Regulations also amended the Waste Management Licensing Regulations 1994 to substitute a provision which contained a cross reference to a numbered provision of the 2005 Regulations. However, that specified provision was incorrectly numbered, and this instrument corrects that error by amending the Waste Management Licensing Regulations 1994 and by omitting the erroneous amendment contained in the 2005 Regulations (regulations 2(2) and 3(4)). It also corrects a further incorrectly numbered cross reference (regulation 3(3)).

7.4 Regulation 4(2) of the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007 requires that, before publishing an emission plan in relation to large combustion plants in the United Kingdom, the Secretary of State must consult certain named bodies in relation to large combustion plants in Scotland, Wales and Northern Ireland. The references in this regulation to the “National Assembly for Wales” and “the Department of the Environment Northern Ireland” should have been to “the Welsh Ministers” and “the Department for Environment” respectively. This instrument makes those corrections (regulation 4(2) and (3)). Regulation 5(7) of those Regulations requires that, before varying certain information relating to large combustion plants, the Secretary of State must consult the operators of all large combustion plants. This instrument amends that provision to make clear that the large combustion plants in question are those in the United Kingdom (regulation 4(4)).

## **8. Impact**

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

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