
STATUTORY INSTRUMENTS

2010 No. 675

The Environmental Permitting (England and Wales) Regulations 2010

PART 1

General

Citation, commencement, extent and application

1.—(1) These Regulations—

- (a) may be cited as the Environmental Permitting (England and Wales) Regulations 2010;
- (b) come into force on 6th April 2010, immediately after the coming into force of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009^{M1}; and
- (c) extend to England and Wales only.

(2) These Regulations apply to the sea adjacent to England and Wales out as far as the seaward boundary of the territorial sea; and for that purpose—

- (a) the sea adjacent to England is so much of the sea adjacent to Great Britain as is not the sea adjacent to Wales or the sea adjacent to Scotland;
- (b) the sea adjacent to Wales has the same meaning as it has by virtue of section 158(3) or (4) of the Government of Wales Act 2006^{M2}; and
- (c) the sea adjacent to Scotland has the same meaning as the internal waters and territorial sea of the United Kingdom adjacent to Scotland has by virtue of section 126(2) of the Scotland Act 1998^{M3}.

Marginal Citations

M1 S.I. 2009/3381.

M2 2006 c. 32; the boundary between the sea adjacent to Wales and that adjacent to England is described by article 6 and Schedule 3 to the [National Assembly for Wales \(Transfer of Functions\) Order 1999 \(S.I. 1999/672\)](#). By virtue of section 162 of and paragraph 26 of Schedule 11 to the 2006 Act, S.I. 1999/672 continues to have effect.

M3 1998 c. 46; the boundaries between waters which are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not are set out in the [Scottish Adjacent Waters Boundaries Order 1999 \(S.I. 1999/1126\)](#).

Interpretation: general

2.—(1) In these Regulations—

“the 1980 Act” means the Highways Act 1980^{M4};

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- “the 1990 Act” means the Environmental Protection Act 1990 ^{M5};
- “the 1991 Act” means the Water Resources Act 1991 ^{M6};
- “the 1993 Act” means the Radioactive Substances Act 1993 ^{M7};
- “the 1995 Act” means the Environment Act 1995 ^{M8};
- “the 2007 Regulations” means the Environmental Permitting (England and Wales) Regulations 2007 ^{M9};
- “the 2009 Regulations” means the Groundwater (England and Wales) Regulations 2009 ^{M10};
- “the Agency” means the Environment Agency;
- “agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947;
- [^{F1}“the Animal By-Products Regulations” means—
- (a) in relation to England, the Animal By-Products Regulations 2005 ^{M11},
 - (b) in relation to Wales, the Animal By-Products (Wales) Regulations 2006 ^{M12};
- “appropriate authority” means—
- (a) in relation to England, the Secretary of State, and
 - (b) in relation to Wales, the Welsh Ministers;
- “Category A mining waste facility” means a mining waste facility that is classified as Category A under Article 9 of the Mining Waste Directive;
- “class”, in relation to a regulated facility, is to be construed in accordance with regulation 8;
- “coastal waters” has the meaning given in section 104 of the 1991 Act;
- “confidential information” means information that is commercially or industrially confidential in relation to any person;
- “date of registration” has the meaning given in paragraph 1 of Schedule 2;
- “directly associated activity”—
- (a) in relation to a SED activity, has the meaning given in paragraph 2 of Schedule 14,
 - (b) in relation to any other activity falling within Part 2 of Schedule 1, has the meaning given in paragraph 1 of Part 1 of that Schedule;
- “disposal”—
- (a) except in relation to a radioactive substances activity, has the meaning given in paragraph 2 of Schedule 9,
 - (b) in relation to a radioactive substances activity, has the meaning given in paragraph 1 of Part 2 of Schedule 23;
- “effluent” has the same meaning as in the 1991 Act;
- “emission” means—
- (a) in relation to a Part A installation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land,
 - (b) in relation to a Part B installation, the direct release of substances or heat from individual or diffuse sources in the installation into the air,
 - (c) in relation to Part A mobile plant, the direct or indirect release of substances, vibrations, heat or noise from the mobile plant into the air, water or land,

- (d) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air,
- (e) in relation to a waste operation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land,
- (f) in relation to a mining waste operation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land, and

- (g) in relation to a radioactive substances activity, the direct or indirect release of radioactive material or radioactive waste;

“enforcement notice” means a notice served under regulation 36;

“environmental permit” has the meaning given in regulation 13(1);

“environmental permit condition” means a condition of an environmental permit;

“establishment” has the same meaning as in the Waste Framework Directive;

“excluded waste operation” means any part of a waste operation not carried on at an installation or by means of Part A mobile plant or Part B mobile plant that—

- (a) is the subject of a licence under Part 2 of the Food and Environment Protection Act 1985^{M13} or does not require such a licence by virtue of an order under section 7 of that Act, or
- (b) relates to waste described in regulation 7(1) of the Controlled Waste Regulations 1992^{M14},

“exempt facility” has the meaning given in regulation 5;

“exempt groundwater activity” has the meaning given in regulation 5;

“exempt waste operation” has the meaning given in regulation 5;

“exempt water discharge activity” has the meaning given in regulation 5;

“exemption registration authority” has the meaning given in paragraph 2 of Schedule 2;

“existing mining waste facility” means a mining waste facility in operation on 1st May 2008;

“extractive waste” means waste within the meaning of Article 2(1) of the Mining Waste Directive, except where it is excluded from the scope of that Directive by Article 2(2)(a) and (b);

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“groundwater activity” has the meaning given in paragraph 3 of Schedule 22;

“hazardous substance” has the meaning given in paragraph 4 of Schedule 22;

“hazardous waste”, except in Section 5.1 of Part 2 of Schedule 1—

- (a) in relation to England, has the meaning given in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005^{M15},
- (b) in relation to Wales, has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005^{M16};

“highway drain” means a drain which a highway authority or other person is entitled to keep open by virtue of section 100 of the 1980 Act;

“household waste” has the meaning given in section 75(5) of the 1990 Act;

“inland freshwaters” has the meaning given in section 104 of the 1991 Act;

“installation” has the meaning given in paragraph 1 of Part 1 of Schedule 1;

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“lake or pond” and “waters of any lake or pond” have the same meaning as in section 104 of the 1991 Act;

“landfill” has the meaning given in paragraph 2(1)(d) of Schedule 10;

“landfill closure notice” means a closure notice served under paragraph 10 of Schedule 10;

“local authority” has the meaning given in regulation 6;

“mining waste facility” has the meaning given in paragraph 2(1) of Schedule 20;

“mining waste facility closure notice” means a closure notice served under paragraph 10 of Schedule 20;

“mining waste operation” has the meaning given in paragraph 2(1) of Schedule 20;

“mobile plant” means any of the following—

- (a) Part A mobile plant,
- (b) Part B mobile plant,
- (c) waste mobile plant;

“mobile radioactive apparatus” has the meaning given in paragraph 1 of Part 2 of Schedule 23;

“net rated thermal input” has the meaning given in paragraph 1 of Part 1 of Schedule 1;

“non-hazardous waste”, except in Section 5.1 of Part 2 of Schedule 1, means waste which is not hazardous waste;

“nuclear site”, in relation to a radioactive substances activity, has the meaning given in paragraph 1 of Part 2 of Schedule 23;

“operate a regulated facility” and “operator” have the meaning given in regulation 7;

“Part A activity” and “Part B activity” have the meaning given in paragraph 1 of Part 1 of Schedule 1;

“Part A installation”, “Part A(1) installation”, “Part A(2) installation” and “Part B installation” have the meaning given in paragraph 1 of Part 1 of Schedule 1;

“Part A mobile plant”, “Part A(1) mobile plant”, “Part A(2) mobile plant” and “Part B mobile plant” have the meaning given in paragraph 1 of Part 1 of Schedule 1;

“pollutant” means any substance liable to cause pollution;

“pollution”, in relation to a water discharge activity or groundwater activity, means the direct or indirect introduction, as a result of human activity, of substances or heat into the air, water or land which may—

- (a) be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,
- (b) result in damage to material property, or
- (c) impair or interfere with amenities or other legitimate uses of the environment;

“pollution”, other than in relation to a water discharge activity or groundwater activity, means any emission as a result of human activity which may—

- (a) be harmful to human health or the quality of the environment,
- (b) cause offence to a human sense,
- (c) result in damage to material property, or
- (d) impair or interfere with amenities or other legitimate uses of the environment;

“prescribed statutory provision” means—

- (a) Part 2 of the Food and Environment Protection Act 1985,

- (b) section 163 of the 1991 Act,
 - (c) section 165 of the Water Industry Act 1991 ^{M17}, or
 - (d) any local statutory provision (within the meaning given in section 221 of the 1991 Act) or statutory order which expressly confers power to discharge effluent into water;
- “prohibition notice” means a notice served under paragraph 9 of Schedule 22;
- “proposed transferee” means the person to whom an operator proposes to transfer an environmental permit in whole or in part;
- “public participation provisions” means regulations 26, 29 and 59, and paragraphs 6 and 8 of Part 1 of Schedule 5;
- “public register” has the meaning given in regulation 46(1);
- “radioactive material” has the meaning given in [^{F2}paragraph 3] of Part 2 of Schedule 23;
- “radioactive substances activity” has the meaning given in [^{F3}paragraph 11] of Part 2 of Schedule 23;
- [^{F4}“radioactive substances exemption” means an exemption under Part 7 of Schedule 23 from the requirement for an environmental permit in respect of a radioactive substances activity;]
- “radioactive waste” has the meaning given in [^{F5}paragraph 3] of Part 2 of Schedule 23;
- “recovery” has the meaning given in paragraph 2 of Schedule 9;
- “register” and “registered”, in relation to an exempt facility, have the meaning given in paragraph 1 of Schedule 2;
- “regulated facility” has the meaning given in regulation 8;
- [^{F6}“Regulation (EC) No 1069/2009” means Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation);]
- “regulator” means the authority on whom functions are conferred by regulation 32, or by a direction under regulation 33;
- “regulator-initiated variation” means the variation of an environmental permit on the initiative of the regulator under regulation 20(1);
- “relevant function” has the meaning given in regulation 9;
- “relevant territorial waters” has the meaning given in section 104(1) of the 1991 Act;
- “revocation notice” means a notice served under regulation 22(3);
- “rule-making authority” means—
- (a) in relation to a regulated facility for which a local authority is the regulator, the appropriate authority, and
 - (b) in relation to any other regulated facility, the Agency;
- “SED activity” means an activity falling within Section 7 of Part 2 of Schedule 1;
- “SED installation” has the meaning given in Schedule 14;
- “sewage effluent” has the meaning given in section 221 of the 1991 Act;
- “sewer” has the same meaning as in the 1991 Act;
- “standard facility” means a regulated facility described in standard rules published under regulation 26(5);

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“stand-alone groundwater activity” means a groundwater activity that is not carried on as part of the operation of a regulated facility of another class;

“stand-alone water discharge activity” means a water discharge activity that is not carried on as part of the operation of a regulated facility of another class;

“statutory order” means any order, byelaw, scheme or award made under any enactment, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

“suspension notice” means a notice served under regulation 37;

“trade effluent” has the meaning given in section 221 of the 1991 Act;

“undertaking”, except in relation to a radioactive substances activity, has the same meaning as in the Waste Framework Directive;

“vessel”, except in Schedule 1, Part 2, Chapter 2, Section 2.2 and in Schedule 23, Part 2, paragraph 7, has the same meaning as in the 1991 Act;

[^{F7}“waste”, except where otherwise defined, and subject to [^{F8}paragraph (5) where it applies], means anything that—

- (a) is waste within the meaning of Article 3(1) of the Waste Framework Directive; and
- (b) is not excluded from the scope of that Directive by Article 2(1), (2) or (3).]

“waste battery or accumulator” has the meaning given in Article 3(7) of the Batteries Directive, but does not include any waste which is excluded from the scope of that Directive by Article 2(2);

“waste mobile plant” means plant that is—

- (a) designed to move or be moved whether on roads or other land,
- (b) used to carry on a waste operation, and
- (c) not an installation, Part A mobile plant or Part B mobile plant;

“waste oil” means mineral-based lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, mineral lubricating oil, oil for turbines and hydraulic oil;

“waste operation” means recovery or disposal of waste;

“water discharge activity” has the meaning given in paragraph 3 of Schedule 21;

“WEEE” has the meaning given in Article 3(b) of the WEEE Directive; and

“working day” means a day other than—

- (a) a Saturday or a Sunday,
- (b) Good Friday or Christmas Day, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 ^{M18}.

(2) For the purpose of calculating a period of time from one event to another event, that period—

- (a) starts on the day on which the first event occurs; and
- (b) ends on the day on which the second event occurs.

(3) In these Regulations, a power to give a direction includes a power to vary or revoke it.

[^{F9}(4) Paragraph (5) applies where a person (“A”)—

- (a) carries on a radioactive substances activity described in paragraph 11(2)(b) or (c) or (4) of Part 2 of Schedule 23 in respect of radioactive waste;
- (b) is exempt under regulation 12(3) from the requirement for an environmental permit in respect of that activity and that waste (“the relevant exemption”); and

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- (c) the waste (“the applicable radioactive waste”) is—
- (i) NORM waste (as that term is defined in Part 7 of Schedule 23); or
 - (ii) the waste described in the first, second or sixth row of column 1 of table 6 in Part 7 of Schedule 23.]

[^{F10}(5) Where this paragraph applies, for so long as the relevant exemption applies to A, the applicable radioactive waste must be treated for the purposes of these Regulations as if it were waste other than radioactive waste.]

Textual Amendments

- F1** Words in reg. 2(1) omitted (E.) (23.3.2011) by virtue of [The Animal By-Products \(Enforcement\) \(England\) Regulations 2011 \(S.I. 2011/881\)](#), reg. 1, **Sch. 2 para. 18(2)(a)**
- F2** Words in reg. 2(1) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **4(2)**
- F3** Words in reg. 2(1) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **4(3)**
- F4** Words in reg. 2(1) inserted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **4(4)**
- F5** Words in reg. 2(1) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **4(5)**
- F6** Words in reg. 2(1) inserted (E.) (23.3.2011) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2011 \(S.I. 2011/881\)](#), reg. 1, **Sch. 2 para. 18(2)(b)**
- F7** Words in reg. 2(1) substituted (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), reg. 1(2), **Sch. 3 para. 2(a)** (with regs. 2, 47(2))
- F8** Words in reg. 2(1) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **4(6)**
- F9** Reg. 2(4) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **4(7)**
- F10** Reg. 2(5) inserted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **4(8)**

Marginal Citations

- M4** 1980 c. 66.
- M5** 1990 c. 43.
- M6** 1991 c. 57.
- M7** 1993 c. 12.
- M8** 1995 c. 25.
- M9** [S.I. 2007/3538](#), amended by section 88(2) of the [Climate Change Act 2008 \(c. 28\)](#), [S.I. 2009/890](#), [S.I. 2009/1799](#) and [S.I. 2009/3381](#).
- M10** [S.I. 2009/2902](#).
- M11** [S.I. 2005/2347](#) to which there are amendments not relevant to these Regulations.
- M12** [S.I. 2006/1293 \(W.127\)](#).
- M13** 1985 c. 48.
- M14** [S.I. 1992/558](#); relevant amending instruments are [S.I. 1993/556](#), [1994/1056](#), [1995/288](#) and [2006/937](#).
- M15** [S.I. 2005/894](#).
- M16** [S.I. 2005/1806 \(W. 138\)](#).
- M17** 1991 c. 56.
- M18** 1971 c. 80.

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Interpretation: Directives

3. In these Regulations—

“the Batteries Directive” means Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive [91/157/EEC](#)^{M19};

“the End-of-Life Vehicles Directive” means Directive [2000/53/EC](#) of the European Parliament and of the Council on end-of-life vehicles ^{M20};

“the IPPC Directive” means Directive [2008/1/EC](#) of the European Parliament and of the Council concerning integrated pollution prevention and control ^{M21};

“the Landfill Directive” means Council Directive [1999/31/EC](#) on the landfill of waste ^{M22}, as read with Council Decision [2003/33/EC](#)^{M23} establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of, and Annex II to, Directive [1999/31/EC](#);

“the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries and amending Directive [2004/35/EC](#)^{M24};

[^{F11}“the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste;]

“the Waste Incineration Directive” means Directive [2000/76/EC](#) of the European Parliament and of the Council on the incineration of waste ^{M25};

“the Water Framework Directive” means Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy ^{M26}; and

“the WEEE Directive” means Directive [2002/96/EC](#) of the European Parliament and of the Council on waste electrical and electronic equipment ^{M27}.

Textual Amendments

F11 Words in reg. 3 substituted (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), reg. 1(2), [Sch. 3 para. 3](#) (with regs. 2, 47(2))

Marginal Citations

M19 OJ No L 266, 26.9.2006, p 1, as last amended by Directive [2008/103/EC](#) of the European Parliament and of the Council (OJ No L 327, 5.12.2008, p 7). There is a relevant corrigendum, OJ No L 311, 10.11.2006, p 58.

M20 OJ No L 269, 21.10.2000, p 34, as last amended by Commission Decision [2008/689/EC](#) (OJ No L 225, 23.8.2008, p 10).

M21 OJ No L 24, 29.1.2008, p 8.

M22 OJ No L 182, 16.7.1999, p 1, as last amended by Directive [2008/98/EC](#) of the European Parliament and of the Council (OJ No L 312, 22.11.2008, p 3).

M23 OJ No L 11, 16.1.2003, p 27.

M24 OJ No L 102, 11.4.2006, p 15, as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).

M25 OJ No L 332, 28.12.2000, p 91, as amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council (OJ No L 311, 21.11.2008, p 1). There is a relevant corrigendum, OJ No L 145, 31.5.2001, p 52.

M26 O.J. No L 327, 22.12.2000, p 1, as last amended by Directive [2009/31/EC](#) of the European Parliament and of the Council on the geological storage of carbon dioxide (OJ No L 140, 5.6.2009, p 114).

M27 OJ No L 37, 13.2.2003, p 24, as last amended by Directive 2008/112/EC of the European Parliament and of the Council (OJ No L 345, 23.12.2008, p 68).

Exempt facilities

4. Schedule 2 (exempt facilities: general) has effect.

Interpretation: exempt facilities

5.—(1) In these Regulations—

“exempt facility” means—

- (a) an exempt waste operation,
- (b) an exempt water discharge activity, or
- (c) an exempt groundwater activity;

[^{F12}“exempt groundwater activity” means—

- (a) a stand-alone groundwater activity that meets the requirements of paragraph 5 of Schedule 2; or
- (b) a groundwater activity that—
 - (i) is a groundwater tracer test as defined in paragraph 1 of Part 3 of Schedule 3;
 - (ii) is also a radioactive substances activity by virtue of the using of radioactive material as a part of that test; and
 - (iii) meets the requirements of paragraph 5 of Schedule 2.]

“exempt waste operation” means a waste operation—

- (a) that—
 - (i) is not carried on at an installation, or
 - (ii) is an activity that falls within Section 5.3 or Section 5.4 of Part 2 of Schedule 1 and is carried on at an installation, and
- (b) that meets the requirements of paragraph 3(1) of Schedule 2; and

“exempt water discharge activity” means a stand-alone water discharge activity that meets the requirements of paragraph 4 of Schedule 2.

(2) In these Regulations, in relation to an exempt waste operation, a reference to any of paragraphs U1 to U16, T1 to T33, D1 to D8 or S1 to S3 has the meaning given in paragraph 1(8) of Chapter 1 of Part 1 of Schedule 3.

Textual Amendments

F12 Words in [reg. 5\(1\)](#) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), [regs. 1\(b\)](#), [5](#)

Interpretation: local authority

6.—(1) In these Regulations, “local authority” means—

- (a) in England outside Greater London—
 - (i) a district council,
 - (ii) where there is a county council but no district council, the county council, or

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- (iii) the Council of the Isles of Scilly;
- (b) in Greater London—
 - (i) the council of a London borough,
 - (ii) the Common Council of the City of London,
 - (iii) the Sub-Treasurer of the Inner Temple, or
 - (iv) the Under-Treasurer of the Middle Temple;
- (c) in Wales—
 - (i) a county council, or
 - (ii) a county borough council.

(2) Where a port health authority has been constituted for a port health district by an order under section 2 of the Public Health (Control of Disease) Act 1984 ^{M28} that authority is the local authority for the area covered by that district in relation to a Part B installation.

Marginal Citations

M28 1984 c. 22.

Interpretation: operate a regulated facility and operator

7. In these Regulations—
- “operate a regulated facility” means—
- (a) operate an installation or mobile plant, or
 - (b) carry on a waste operation, mining waste operation, radioactive substances activity, water discharge activity or groundwater activity; and
- “operator”, in relation to a regulated facility, means—
- (a) the person who has control over the operation of the regulated facility,
 - (b) if the regulated facility has not yet been put into operation, the person who will have control over the regulated facility when it is put into operation, or
 - (c) if a regulated facility authorised by an environmental permit ceases to be in operation, the person who holds the environmental permit.

Interpretation: regulated facility and class of regulated facility

- 8.—(1) In these Regulations, “regulated facility” means any of the following—
- (a) an installation,
 - (b) mobile plant,
 - (c) a waste operation,
 - (d) a mining waste operation,
 - (e) a radioactive substances activity,
 - (f) a water discharge activity,
 - (g) a groundwater activity.
- (2) But the following are not regulated facilities—
- (a) an exempt facility,

- (b) an excluded waste operation,
 - (c) the disposal or recovery of household waste from a domestic property within the curtilage of that property by a person other than an establishment or undertaking.
- (3) In these Regulations, a reference to a class of regulated facility is a reference to a class in paragraph (1).
- (4) A regulated facility of any of the following classes may be carried on as part of the operation of a regulated facility of another class—
- (a) waste operation;
 - (b) mining waste operation;
 - (c) water discharge activity;
 - (d) groundwater activity.

Interpretation: relevant function

9. In these Regulations, “relevant function” means any of the following functions—
- (a) determining an application—
 - (i) for the grant of an environmental permit under regulation 13(1),
 - (ii) for the variation of an environmental permit under regulation 20(1),
 - (iii) for the transfer of an environmental permit in whole or in part under regulation 21(1),
 - (iv) for the surrender of an environmental permit in whole or in part under regulation 25(2),
 - (b) varying an environmental permit—
 - (i) on the initiative of the regulator under regulation 20(1),
 - (ii) in relation to a transfer in whole or in part under regulation 21(1) or (3),
 - (iii) in relation to a partial revocation under regulation 22(1),
 - (iv) in relation to a partial surrender under regulation 24(2) or 25(2),
 - (c) revoking an environmental permit in whole or in part under regulation 22(1),
 - (d) exercising the power to serve a notice under Schedule 21 or 22 requiring a person to hold an environmental permit,
 - (e) exercising the following powers or duty—
 - (i) any power in relation to standard rules in Chapter 4 of Part 2,
 - (ii) the duty to vary an environmental permit after revocation of standard rules in regulation 30(3),
 - (f) exercising any of the following powers relating to enforcement—
 - (i) the power to serve an enforcement notice,
 - (ii) the power to serve a suspension notice,
 - (iii) the power to serve a prohibition notice,
 - (iv) the power to serve a landfill closure notice,
 - (v) the power to serve a mining waste facility closure notice.

Giving notices, notifications and directions, and the submission of forms

- 10.—(1) In this regulation, “instrument” means a notice, notification, certificate, direction or form under these Regulations.

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- (2) An instrument must be in writing.
- (3) An instrument may be served on or given to a person by—
- (a) personal delivery;
 - (b) leaving it at the person's proper address; or
 - (c) sending it by post or electronic means to the person's proper address.
- (4) In the case of a body corporate, an instrument may be served on or given to the secretary or clerk.
- (5) In the case of a partnership, an instrument may be served on or given to a partner or a person having control or management of the partnership business.
- (6) For the purposes of this regulation, “proper address” means—
- (a) in the case of a body corporate or their secretary or clerk—
 - (i) the registered or principal office of that body, or
 - (ii) the email address of the secretary or clerk,
 - (b) in the case of a partnership or a partner or person having control or management of the partnership business—
 - (i) the principal office of the partnership, or
 - (ii) the email address of a partner or a person having that control or management,
 - (c) in any other case, a person's last known address, which includes an email address.
- (7) For the purposes of paragraph (6), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.
- (8) A form provided by the regulator which specifies an electronic address for submission may be submitted electronically to that address.
- (9) A form provided by the regulator for completion and submission through a website may be submitted through that site.

PART 2

Environmental Permits

CHAPTER 1

Application to the Crown and requirement for an environmental permit

Application to the Crown

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

Requirement for environmental permit

12.—(1) A person must not, except under and to the extent authorised by an environmental permit—

- (a) operate a regulated facility; or
- (b) cause or knowingly permit a water discharge activity or groundwater activity.

(2) Paragraph (1)(b) does not apply if the water discharge activity or groundwater activity is an exempt facility.

[^{F13}(3) In respect of a radioactive substances activity, paragraph (1) does not apply to a person to whom a radioactive substances exemption applies for that activity.

- (4) Paragraph (5) applies to a person (“A”) who—
- (a) receives radioactive waste from another person (“B”) for the purposes of A disposing of that waste; and
 - (b) subsequently disposes of that waste.
- (5) Where this paragraph applies, A does not require an environmental permit—
- (a) for the receipt of waste from B, where B holds an environmental permit which allows B to dispose of the waste to A; or
 - (b) for the subsequent disposal of that waste by A, where the waste is disposed of in accordance with the permit held by B.]

Textual Amendments

F13 Reg. 12(3)-(5) substituted for reg. 12(3) (1.10.2011) by The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), regs. 1(b), 6

CHAPTER 2

Grant of an environmental permit

Grant of an environmental permit

13.—(1) On the application of an operator, the regulator may grant the operator a permit (an “environmental permit”) authorising—

- (a) the operation of a regulated facility; and
- (b) that operator as the person authorised to operate that regulated facility.

(2) Regulation 17 applies in relation to the grant of a single permit authorising the operation of more than one regulated facility by the same operator.

(3) Part 1 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) the regulated facility whose operation it authorises; and
- (b) the operator of that regulated facility.

(2) An environmental permit that authorises the operation of a regulated facility (“regulated facility A”) need not specify any regulated facility of another class that is carried on as part of the operation of regulated facility A.

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

(4) An environmental permit must include a map, plan or other description of the site showing the geographical extent of the site of the regulated facility.

(5) But if there is more than one regulated facility on the site, the map, plan or other description need show only the combined extent of all the facilities.

(6) Paragraphs (4) and (5) do not apply to an environmental permit authorising—

- (a) the operation of mobile plant; or

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- (b) the carrying on of a radioactive substances activity described in [F14] paragraph 11(5)] of Part 2 of Schedule 23.

Textual Amendments

F14 Words in reg. 14(6)(b) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), 7

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 the operator 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 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 another regulated facility the operation of which is authorised under 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.—(1) Except as otherwise provided by this regulation, a regulator may not authorise the operation of more than one regulated facility under a single environmental permit.

(2) The regulator may authorise, under a single environmental permit, the operation by the same operator—

- (a) of more than one mobile plant;
- (b) of more than one standard facility (other than a standard facility to which the IPPC Directive applies); or
- (c) subject to paragraph (3) and (4), of more than one regulated facility on the same site.

(3) If one of the regulated facilities mentioned in paragraph (2)(c) is a radioactive substances activity described in [F15] paragraph 11(5)] of Part 2 of Schedule 23, the permit may authorise the operation of that regulated facility on more than one site.

(4) If a groundwater activity is carried on as part of a radioactive substances activity—

- (a) the regulator must authorise the carrying on of the groundwater activity under the same environmental permit that authorises the carrying on of the radioactive substances activity; and
- (b) a separate permit must not be granted in relation to the groundwater activity.

Textual Amendments

- F15** Words in [reg. 17\(3\)](#) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), [regs. 1\(b\), 8](#)

Consolidation of an environmental permit

18.—(1) Paragraph (2) applies if the same operator is authorised by more than one environmental permit to operate—

- (a) more than one mobile plant;
- (b) more than one standard facility, not being a standard facility to which the IPPC Directive applies; or
- (c) more than one regulated facility on the same site.

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

- (a) applying to the same regulated facilities; and
- (b) subject to the same conditions that applied to the old permits, but varied as the regulator thinks fit.

(3) The regulator may replace a consolidated environmental permit (“old permit”) with 2 or more environmental permits (“new permits”).

(4) Each of the new permits is subject to whichever conditions of the old permit are relevant, varied as the regulator thinks fit.

(5) The regulator may replace a single environmental permit (“old permit”) which has been varied with a consolidated environmental permit subject to the same conditions that applied to the old permit.

(6) A variation made by a regulator under this regulation—

- (a) is taken to be a regulator-initiated variation under regulation 20(1); and
- (b) may only be made in accordance with regulation 20.

(7) Paragraphs 17, 18 and 19 of Part 1 of Schedule 5 apply in relation to the decision to make a regulator-initiated variation and the notification of such a decision.

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) A variation under this regulation must not reduce the extent of the site of a regulated facility.

(3) Paragraph (2) does not apply if the variation relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description—

- (a) a Part B installation, except to the extent that it relates to a waste operation;
- (b) a stand-alone water discharge activity or stand-alone groundwater activity.

(4) With respect to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone water discharge activity, a regulator must not, without the agreement of the operator, on its own initiative—

- (a) within 4 years after the grant of the permit, vary any condition of the permit that relates to the water discharge activity; or
- (b) within 4 years after the variation of a condition of the permit that relates to the water discharge activity, further vary that condition.

(5) Paragraph (4) does not apply if—

- (a) the regulated facility is a standard facility; or
- (b) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in order to comply with—
 - (i) an obligation of the United Kingdom under the Community Treaties; or
 - (ii) a direction given by the appropriate authority under regulation 61.

(6) Part 1 of Schedule 5 applies in relation to an application for the variation of 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, on the joint application of an operator and a proposed transferee, transfer to the proposed transferee an environmental permit or any part of an environmental permit.

(2) Part 1 of Schedule 5 applies in relation to an application for the transfer of an environmental permit in whole or in part.

(3) Paragraph (1) does not apply to an environmental permit (or any part of a permit) that authorises the carrying on of a stand-alone water discharge activity or stand-alone groundwater activity.

(4) The regulator may, on the joint notification of an operator and a proposed transferee, transfer to the proposed transferee any part of an environmental permit (or if applicable, the whole permit) to which paragraph (1) does not apply.

(5) A notification must—

- (a) be made on the form provided by the regulator;
- (b) include such information as is specified on the form; and

- (c) specify a date on which the transfer is to take place, which must be not less than 20 working days after the date on which the notification is given.
- (6) A transfer following a notification takes effect on the date specified in the notification.
- (7) If—
 - (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 after 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 variation.
- (6) Any variation made by a regulator under this regulation—
- (a) is taken to be a regulator-initiated variation under regulation 20(1); and
 - (b) may only be made in accordance with regulation 20.
- (7) Paragraphs 17, 18 and 19 of Part 1 of Schedule 5 apply in relation to the decision to make a regulator-initiated variation and the notification of such a decision.
- (8) If a waste operation, stand-alone water discharge activity or stand-alone groundwater activity is registered as an exempt facility, that part of an environmental permit (or if applicable, the whole permit) that relates to the waste operation, water discharge activity or groundwater activity is revoked on the date of registration.

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

- 23.**—(1) This regulation applies where the regulator has decided to revoke an environmental permit, or part of a permit, and the regulator 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

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(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 regulation does not apply if the revocation relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description—

- (a) a Part B installation, except to the extent that it relates to a waste operation;
- (b) mobile plant;
- (c) a stand-alone water discharge activity or stand-alone groundwater activity.

(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 in regulation 38(2).

Notification of the surrender of an environmental permit

24.—(1) This regulation applies to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description or class—

- (a) a Part B installation, except to the extent that it relates to a waste operation;
- (b) mobile plant;
- (c) a stand-alone water discharge activity or stand-alone groundwater activity.

(2) By notification to the regulator, the operator may surrender that part of an environmental permit (or if applicable, the whole permit) to which this regulation applies.

(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 after 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)(c), the variation and partial surrender both take effect on the later date.

Application for the surrender of an environmental permit

25.—(1) This regulation applies to an environmental permit, or any part of a permit, to which regulation 24 does not apply.

(2) By application to the regulator, an operator may surrender an environmental permit, or that part of a permit, to which this regulation applies.

(3) Part 1 of Schedule 5 applies in relation to an application for the surrender of 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 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 operation of 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.

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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 after 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 after 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 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) In this regulation, “application” has the meaning given in paragraph 1 of Part 1 of Schedule 5.

(2) Subject to paragraphs (4) and (5), the following persons may appeal to the appropriate authority—

- (a) a person whose application is refused;
- (b) a person who is aggrieved by a decision to impose an environmental permit condition following that person's application;
- (c) a person who is aggrieved by a decision to impose a condition on an environmental permit held by that person—

- (i) as a result of a regulator-initiated variation, or
- (ii) to take account of the partial transfer, partial revocation or partial surrender of that environmental permit;
- (d) a person who is aggrieved by the deemed withdrawal under paragraph 4(2) of Part 1 of Schedule 5 of that person's duly-made application;
- (e) a person who is aggrieved by a decision relating to an environmental permit held by that person not to authorise the closure procedure mentioned in—
 - (i) Article 13 of the Landfill Directive after a request referred to in Article 13(a)(ii) of that Directive, or
 - (ii) Article 12 of the Mining Waste Directive after a request referred to in Article 12(2)(b) of that Directive;
- (f) a person on whom an enforcement notice, a revocation notice, suspension notice, prohibition notice, landfill closure notice or mining waste facility closure notice is served.
- (3) In paragraph (2), “person” includes a person to whom an environmental permit is transferred after—
 - (a) an application or a decision mentioned in that paragraph is made, or
 - (b) a notice mentioned in that paragraph is served.
- (4) Paragraph (2) does not apply where—
 - (a) the relevant decision or notice implements a direction of the appropriate authority given under—
 - (i) regulation 61(1),
 - (ii) regulation 62(1) or (6), or
 - (iii) paragraph (7) of this regulation; or
 - (b) an application for the grant or variation of an environmental permit in relation to a Category A mining waste facility that is an existing mining waste facility is refused pursuant to paragraph 14(2) of Schedule 20.
- (5) Paragraph (2)(f) 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.
- (6) On the determination of an appeal in respect of a notice, the appropriate authority—
 - (a) may quash or affirm the notice; and
 - (b) if it affirms the notice, may affirm it, with or without modifications.
- (7) When determining an appeal in respect of a decision, the appropriate authority has the same powers as the regulator had when making the decision.
- (8) On the determination of an appeal in respect of 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)(a) of Schedule 6.
- (9) Except as otherwise provided by this regulation—
 - (a) an appeal does not have the effect of suspending a decision or notice; but
 - (b) if an appeal is brought against a revocation notice, the notice does not take effect until the final determination or the withdrawal of the appeal.
- (10) Subject to paragraph (13), paragraph (9)(b) does not apply if the revocation notice—
 - (a) relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone water discharge activity; and

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(b) states that, in the opinion of the regulator, the revocation is necessary for the purpose of preventing or, where that is not practicable, minimising, pollution.

(11) If an appeal is brought under paragraph (2)(c)(i) in respect of a decision to impose a condition on an environmental permit in relation to a stand-alone water discharge activity, the imposition of the environmental permit condition does not take effect, subject to paragraphs (12) and (13), until the final determination or the withdrawal of the appeal.

(12) Paragraph (11) does not apply if the notice effecting the decision includes a statement that, in the opinion of the regulator, the imposition of the condition is necessary for the purpose of preventing or, where that is not practicable, minimising, pollution.

(13) If the appropriate authority, on the application of the appellant, determines that the regulator acted unreasonably in excluding the application of paragraph (9)(b) or (11), then—

- (a) if the appeal is still pending at the end of the day on which the determination is made, paragraph (9)(b) or (11) applies to the decision or notice from the end of that day;
- (b) the appellant is entitled to recover compensation from the regulator in respect of any loss suffered in consequence of that exclusion; and
- (c) any dispute as to a person's entitlement to such compensation or as to the amount of it is to be determined by a single arbitrator appointed—
 - (i) by agreement between the parties to the dispute; or
 - (ii) in the absence of agreement, by the appropriate authority.

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

PART 3

Discharge of functions in relation to a regulated facility

Discharge of functions

32.—(1) Subject to regulation 33, functions in relation to a regulated facility, other than a regulated facility mentioned in paragraph (2), are exercisable by the Agency.

(2) Functions in relation to a regulated facility of the following description or class are exercisable by the local authority in whose area the regulated facility is or will be operated—

- (a) a Part A(2) installation or Part A(2) mobile plant;
- (b) a Part B installation or Part B mobile plant, but not in respect of any of the following regulated facilities carried on at the installation or by means of mobile plant—
 - (i) a waste operation (unless it is a Part B activity),
 - (ii) a mining waste operation,
 - (iii) a water discharge activity,
 - (iv) a groundwater activity.

(3) If the principal place of business of the operator of Part A(2) mobile plant or Part B mobile plant is in England and Wales, functions in relation to that regulated facility are exercisable by the local authority in whose area the place of business is.

(4) If the principal place of business of the operator of Part A(2) mobile plant or Part B mobile plant is not in England and Wales, functions in relation to that regulated facility are exercisable by—

- (a) the local authority which granted the environmental permit authorising the operation of the regulated facility; or

- (b) if no permit has been granted, the local authority in whose area the regulated facility is first operated, or is intended to be first operated.
- (5) In this regulation, “functions” includes relevant functions.

Direction to a regulator: discharge of functions by a different regulator

- 33.**—(1) An appropriate authority may direct—
- (a) the Agency to exercise such local authority functions as are, and for such period as is, specified in the direction; or
 - (b) a local authority to exercise such Agency functions as are, and for such period as is, specified in the direction.
- (2) A direction under this regulation may include such saving and transitional provisions as the appropriate authority considers necessary or expedient.
- (3) A direction under this regulation may be made in respect of a description or class of regulated facility or a specific regulated facility.
- (4) A direction under paragraph (1)(b) may only be made in respect of—
- (a) an installation, but not in respect of a mining waste operation carried on at an installation; or
 - (b) mobile plant.
- (5) When giving a direction under this regulation the appropriate authority must notify the persons in paragraph (6) of the direction and publish the direction on its website.
- (6) The persons are—
- (a) the Agency; and
 - (b) any local authority or other person whom the appropriate authority considers is affected by the direction.
- (7) An appropriate authority must not comply with a duty under paragraph (5) in a case where the authority considers that to do so would be contrary to the interests of national security.
- (8) In this regulation (ignoring any direction under this regulation)—
- “Agency functions” means functions which are exercisable by the Agency by virtue of regulation 32 or paragraph 2 of Schedule 2; and
 - “local authority functions” means functions which are exercisable by a local authority by virtue of regulation 32 or paragraph 2 of Schedule 2.

Review of environmental permits and inspection of regulated facilities

- 34.**—(1) The regulator must periodically review environmental permits.
- (2) The regulator must make appropriate periodic inspections of regulated facilities.

Specific provisions applying to environmental permits

- 35.**—(1) Schedules 7 to 23 have effect.
- (2) To the extent that the operation of a regulated facility of a description or class mentioned in any of the following Schedules requires an environmental permit, the requirements of that Schedule apply in relation to that regulated facility—
- (a) Schedule 7 (Part A installations and Part A mobile plant);
 - (b) Schedule 8 (Part B installations and Part B mobile plant);

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- (c) Schedule 9 (waste operations);
- (d) Schedule 10 (landfill);
- (e) Schedule 11 (waste motor vehicles);
- (f) Schedule 12 (waste electrical and electronic equipment);
- (g) Schedule 13 (waste incineration);
- (h) Schedule 14 (SED installations);
- (i) Schedule 15 (large combustion plants);
- (j) Schedule 16 (asbestos);
- (k) Schedule 17 (titanium dioxide);
- (l) Schedule 18 (petrol vapour recovery);
- (m) Schedule 19 (waste batteries and accumulators);
- (n) Schedule 20 (mining waste operations);
- (o) Schedule 21 (water discharge activities);
- (p) Schedule 22 (groundwater activities);
- (q) Schedule 23 (radioactive substances activities).

PART 4

Enforcement and offences

Enforcement notices

36.—(1) If the regulator considers that an operator has contravened, is contravening, or is likely to contravene an environmental permit condition, the regulator may serve a notice (an “enforcement notice”) on the operator under this regulation.

(2) An enforcement notice must—

- (a) state the regulator’s view under paragraph (1);
- (b) specify the matters constituting the contravention or making a contravention likely;
- (c) specify the steps that must be taken to remedy the contravention or to ensure that the likely contravention does not occur; and
- (d) specify the period within which those steps must be taken.

(3) Steps that may be specified in an enforcement notice include steps—

- (a) to make the operation of a regulated facility comply with the environmental permit conditions; and
- (b) to remedy the effects of pollution caused by the contravention.

(4) The regulator may withdraw an enforcement notice at any time by further notice served on the operator.

Suspension notices

37.—(1) The regulator may suspend an environmental permit by serving a notice (a “suspension notice”) on the operator under this regulation.

(2) If the regulator considers that the operation of a regulated facility under an environmental permit involves a risk of serious pollution, it may serve a suspension notice on the operator.

(3) Paragraph (2) applies whether or not the manner of operating the regulated facility which involves the risk is subject to or contravenes an environmental permit condition.

(4) A suspension notice served for the purpose of paragraph (2) must—

(a) specify—

- (i) the risk of serious pollution mentioned in that paragraph,
- (ii) the steps that must be taken to remove that risk, and
- (iii) the period within which the steps must be taken;

(b) state that the environmental permit ceases to have effect to the extent specified in the notice until the notice is withdrawn; and

(c) if the environmental permit continues to authorise the operation of a regulated facility, state any steps (in addition to those already required to be taken by the environmental permit conditions) that are to be taken when operating that regulated facility.

(5) The regulator may suspend an environmental permit under regulation 65(5) by serving a suspension notice on the operator.

(6) A suspension notice served for the purpose of paragraph (5) must—

(a) specify the reason for the suspension;

(b) state the sum payable by the operator and the period within which it is to be paid; and

(c) state that the environmental permit ceases to have effect to the extent specified in the notice until the notice is withdrawn.

(7) If a suspension notice is served, the environmental permit ceases to have effect to the extent stated in the notice.

(8) The regulator—

(a) may withdraw a suspension notice at any time by further notice served on the operator; and

(b) must withdraw a notice when satisfied that the steps specified in it have been taken.

Offences

38.—(1) It is an offence for a person to—

(a) contravene regulation 12(1); or

(b) knowingly cause or knowingly permit the contravention of regulation 12(1)(a).

(2) It is an offence for a person to fail to comply with or to contravene an environmental permit condition.

(3) It is an offence for a person to fail to comply with the requirements of an enforcement notice or of a prohibition notice, suspension notice, landfill closure notice or mining waste facility closure notice.

(4) It is an offence for a person—

(a) to fail to comply with a notice under regulation 60(1) requiring the provision of information, without reasonable excuse;

(b) to make a statement which the person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

- (i) in purported compliance with a requirement to provide information imposed by or under a provision of these Regulations,

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- (ii) for the purpose of obtaining the grant of an environmental permit to any person, or the variation, transfer in whole or in part, or surrender in whole or in part of an environmental permit, or
- (iii) for the purpose of obtaining, renewing or amending the registration of an exempt facility;
- (c) intentionally to make a false entry in a record required to be kept under an environmental permit condition;
- (d) with intent to deceive—
 - (i) to forge or use a document issued or authorised to be issued or required for any purpose under an environmental permit condition, or
 - (ii) to make or have in the person's possession a document so closely resembling such a document as to be likely to deceive.
- (5) It is an offence for an establishment or undertaking to—
 - (a) fail to comply with paragraph 14(3) or (4) of Schedule 2; or
 - (b) intentionally make a false entry in a record required to be kept under that paragraph.
- (6) If an offence committed by a person under this regulation is due to the act or default of some other person, that other person is also guilty of the offence and liable to be proceeded against and punished accordingly, whether or not proceedings for the offence are taken against the first-mentioned person.

Penalties

- 39.**—(1) A person guilty of an offence under regulation 38(1), (2) or (3) is liable—
- (a) on summary conviction to a fine not exceeding £50,000 or imprisonment for a term not exceeding 12 months, or to both; or
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years, or to both.
- (2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 ^{M29}, paragraph (1)(a) has effect as if for “12 months” there were substituted “6 months”.
- (3) A person guilty of an offence under regulation 38(4) is liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.
- (4) An establishment or undertaking guilty of an offence under regulation 38(5) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Marginal Citations

M29 The power to create penalties in section 2 and paragraph 25 of Schedule 1 to the [Pollution Prevention and Control Act 1999 \(c. 24\)](#) is modified pending the commencement of section 154(1) of the [Criminal Justice Act 2003 \(c. 44\)](#) by section 105 of the [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), as amended by section 88(1) of the [Climate Change Act 2008 \(c. 27\)](#).

Defences

40.—(1) It is a defence for a person charged with an offence under regulation 38(1), (2) or (3) to prove that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

- (a) the person took all such steps as were reasonably practicable in the circumstances for minimising pollution; and
- (b) particulars of the acts were furnished to the regulator as soon as reasonably practicable after they were done.

(2) A person who knowingly permits a water discharge activity or groundwater activity where the discharge is water from an abandoned mine or an abandoned part of a mine is not guilty of an offence under regulation 38(1) unless—

- (a) the person is the owner or former operator of the mine or that part of it; and
- (b) the mine or the part of the mine was abandoned after 31st December 1999.

(3) In paragraph (2), “abandoned”, in relation to a mine, and “mine” have the meaning given in section 91A of the 1991 Act.

Offences by bodies corporate

41.—(1) If an offence committed under these Regulations by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on the part of an officer,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(3) In this regulation, “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

Enforcement by the High Court

42. If the regulator considers that proceedings against a person for an offence under regulation 38(3) would afford an ineffectual remedy against the person, the regulator may take proceedings in the High Court for the purpose of securing compliance with the enforcement notice, suspension notice, prohibition notice, landfill closure notice or mining waste facility closure notice.

Admissibility of evidence

43. Where, pursuant to an environmental permit granted by a local authority, an entry is required to be made in any record as to the observance of a condition of the environmental permit and the entry has not been made, that fact is admissible as evidence that the condition has not been observed.

Power of court to order cause of offence to be remedied

44.—(1) This regulation applies where a person is convicted of an offence under regulation 38(1), (2) or (3) in respect of a matter which appears to the court to be a matter which it is in the person's power to remedy.

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(2) In addition to or instead of a punishment imposed under regulation 39 the court may order the person to take such steps for remedying the matter within such period as may be specified in the order.

(3) The period may be extended, or further extended, by order of the court on an application made before the end of the period or the extended period, as the case may be.

(4) If a person is ordered to remedy a matter, that person is not liable under regulation 38 in respect of that matter during the period or the extended period.

PART 5

Public Registers

Interpretation of this Part

45. In this Part—

“final confidentiality decision” means—

- (a) a determination under regulation 50,
- (b) a determination under section 22(2) or 66(2) of the 1990 Act,
- (c) a determination under regulation 31(2) of the 2000 Regulations, or
- (d) the determination or withdrawal of an appeal in relation to a determination referred to in paragraphs (a) to (c);

“the information subject” means the person to whom information relates; and

“objection notice” means a notice given under regulation 48(1)(b).

Duty of the regulator to maintain a public register

46.—(1) Subject to regulations 47 and 48, the regulator must maintain a register (a “public register”) containing the information in paragraph 1 of Schedule 24 (public registers).

(2) Nothing in paragraph (1) requires a public register to contain information relating to criminal proceedings, or anything which is the subject matter of criminal proceedings, before those proceedings are finally disposed of.

(3) In paragraph (2), “criminal proceedings” includes prospective criminal proceedings.

(4) A local authority must also include on its public register any information which is included on the Agency's public register in respect of a regulated facility (other than mobile plant or a stand-alone water discharge activity or stand-alone groundwater activity)—

- (a) for which the Agency is the regulator; and
- (b) which is in the area of the authority.

(5) But—

- (a) paragraph (4) does not apply to a port health authority; and
- (b) every local authority whose area adjoins that of a port health authority must comply with paragraph (4) as if the port health authority had not been constituted.

(6) The Agency must provide the local authority with the information necessary to comply with paragraph (4).

(7) The regulator must enter information on its public register as soon as reasonably practicable after it comes within the regulator's possession.

(8) Where information of any description is excluded from any public register under regulation 48, a statement must be entered on the register indicating the existence of information of that description.

(9) The regulator must—

- (a) make its public register available for public inspection at all reasonable times, free of charge; and
- (b) enable members of the public to obtain copies of entries on its public register on payment of a reasonable charge.

(10) A public register may be kept in any form.

Exclusion from public registers of information affecting national security

47.—(1) The appropriate authority may direct the regulator that in the interests of national security specified information or information of a specified description must be excluded from a public register.

(2) The regulator must notify the appropriate authority of any information (other than information relating to a radioactive substances activity) that it excludes from a public register pursuant to such a direction.

(3) The appropriate authority may direct the regulator that in the interests of national security information of a specified description—

- (a) must be referred to the authority for its determination as to whether or not the information may be included on a public register; and
- (b) must not be included on a public register unless the appropriate authority determines that it may be included.

(4) A person may give a notice to the appropriate authority stating that, in the person's opinion, the inclusion of information on a public register would be contrary to the interests of national security.

(5) A notice under paragraph (4) must specify the information and indicate its apparent nature.

(6) A person giving a notice under paragraph (4) must at the same time notify the regulator.

(7) The regulator must not include information notified under paragraph (4) on a public register unless the appropriate authority determines that it may be included.

Exclusion from public registers of confidential information

48.—(1) The regulator must exclude information from a public register, unless a condition in paragraph (2) is met, if it—

- (a) considers that the information may be confidential information; or
- (b) receives notice from the information subject which—
 - (i) states that the information subject considers the information is confidential information, and
 - (ii) gives reasons for that view.

(2) The conditions are that—

(a) in relation to paragraph (1)(a), the regulator has given a notice under regulation 49(1) and the information subject has given notice of consent under regulation 49(2)(a);

(b) in relation to paragraph (1)(a) or (b)—

- (i) a final confidentiality decision that the information should be included on the register has been made, or

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- (ii) the appropriate authority has given a direction under regulation 56(1) which requires the information to be included on the register.

Procedure if the regulator considers that information may be confidential

49.—(1) If the regulator considers that information may be confidential information but has not received an objection notice, it must give notice of that view to the information subject.

(2) The information subject may within 15 working days after the date of the notice given by the regulator under paragraph (1)—

- (a) give notice to the regulator consenting to the regulator including the information on the register; or
- (b) give an objection notice to the regulator.

Duty to determine confidentiality

50. The regulator must determine whether information must be included on the public register, or excluded from the public register because it is confidential information, if—

- (a) having given notice under regulation 49(1), it does not receive notice of consent in accordance with regulation 49(2)(a); or
- (b) it receives an objection notice.

Determination of confidentiality

51.—(1) When making a determination under regulation 50, the regulator must comply with this regulation.

(2) In making the determination, the regulator must—

- (a) take any reasons given in an objection notice into account;
- (b) apply a presumption in favour of including the information on the public register; and
- (c) determine to exclude the information from the public register if it considers that—
 - (i) the information is commercial or industrial information,
 - (ii) its confidentiality is provided by law to protect a legitimate economic interest, and
 - (iii) in all the circumstances, the public interest in maintaining the confidentiality of the information outweighs the public interest in including it on the register.

(3) But, to the extent that information relates to emissions, the regulator must determine to include it on the public register.

(4) Nothing in this regulation authorises the exclusion from the public register of information contained in or otherwise held with other information excluded from the register unless the information is not reasonably capable of being separated for the purposes of inclusion on the register.

Procedure following a determination

52.—(1) The regulator must give notice of its determination, the reasons for it and the details of the appeals procedure to the information subject within—

- (a) a period of 20 working days beginning with the date its duty under regulation 50 arises; or
- (b) such longer period as it agrees with the information subject.

(2) If the regulator fails to give notice under paragraph (1) within the period required by that paragraph, the information subject may give notice to the regulator of that failure, and on such notice—

- (a) the regulator is deemed to have determined that the information must be included on the register; and
- (b) the deemed determination is subject to the right of appeal in regulation 53(1).

(3) If the regulator determines that the information must be included on the public register, it must not include the information before the expiry of the period of 15 working days after—

- (a) it has given notice of the determination; or
- (b) a notice under paragraph (2) resulting in a deemed determination is given,

but must include it after the expiry of that period if notice of appeal has not been given.

Appeals in relation to confidentiality

53.—(1) The information subject may give notice of appeal to the appropriate authority against a determination made under regulation 50 within 15 working days after the regulator has given notice of it.

(2) A notice of appeal must—

- (a) be in writing;
- (b) include a statement of the grounds of appeal;
- (c) state whether the information subject wishes the appeal to be in the form of a hearing or to be disposed of through written representations; and
- (d) be copied to the regulator.

(3) If the information subject gives notice of appeal, the regulator must not include the information on the public register before the appeal is decided.

(4) The appropriate authority—

- (a) may give the information subject and the regulator an opportunity of appearing before and being heard by a person appointed by it; and
- (b) must do so in a case where the notice of appeal states that the information subject wishes the appeal to be in the form of a hearing.

(5) A hearing under paragraph (4) of this regulation is subject to paragraphs 5(2) to 5(6) and 6 of Schedule 6 (except paragraph 5(3)(c)) as if it were a hearing under paragraph 5(1) of that Schedule, save that “the appellant” is to be read as “the information subject”.

Consequences of an appeal

54.—(1) If the appropriate authority allows the appeal, the regulator must exclude the information from the public register.

(2) If the appropriate authority rejects the appeal or the appeal is withdrawn, the regulator must include the information on the public register.

Reconsideration of confidentiality

55.—(1) The regulator must cease to treat information as confidential information at the expiry of—

- (a) a period of 4 years after the final confidentiality decision; or
- (b) such shorter period as is specified in that decision.

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(2) But if the person to whom the information relates gives notice to the regulator before the expiry of that period that the person considers that the information remains confidential information—

- (a) regulation 48 applies in respect of the information and the regulator must treat the notice as an objection notice; and
- (b) regulations 50 to 54 apply notwithstanding any previous compliance with those regulations in relation to the information.

Directions of the appropriate authority in relation to confidentiality

56.—(1) The appropriate authority may direct the regulator that specified information, or information of a specified description, must be included on the public register even though it is confidential information.

(2) The appropriate authority must not give a direction under paragraph (1) unless it considers that the public interest in including such information on the register outweighs the public interest in maintaining its confidentiality.

PART 6

Powers and functions of the regulator and the appropriate authority

Power of the regulator to prevent or remedy pollution

57.—(1) If the regulator considers that the operation of a regulated facility under an environmental permit involves a risk of serious pollution, it may arrange for steps to be taken to remove that risk.

- (2) The regulator may arrange for steps to be taken to remedy the effects of pollution if—
 - (a) the commission of an offence under regulation 38(1), (2) or (3) causes pollution; or
 - (b) the regulator suspects that an offence under that regulation is being or has been committed and that pollution is being or has been caused as a result.

(3) If the regulator intends to arrange for steps to be taken under paragraph (2), it must notify the operator of the steps not less than 5 working days before they are taken.

(4) If the regulator arranges for steps to be taken under this regulation, it may recover the cost of taking those steps from the operator.

- (5) But costs are not recoverable under paragraph (4)—
 - (a) if the steps referred to in paragraph (1) are taken and the operator shows that there was no risk of serious pollution; or
 - (b) to the extent that the operator shows that the costs were unnecessarily incurred by the regulator.

Environment Agency: notices in relation to emissions to water

58.—(1) This regulation applies to Part A installations and Part A mobile plant for which a local authority is the regulator.

(2) At any time the Agency may give notice to the local authority specifying the emission limit values or the conditions it considers appropriate for preventing or reducing emissions into water from the installation or mobile plant.

(3) If such a notice is issued, the local authority must exercise its functions under these Regulations to ensure the environmental permit for the installation or mobile plant includes—

- (a) the emission limit values or conditions specified in the notice; or
- (b) such stricter limit values or more onerous conditions as the authority thinks fit.

(4) In this regulation, “emission limit value” means the mass, expressed in terms of specific parameters, concentration or level of an emission, which must not be exceeded during a period of time.

Environment Agency: public participation statement

59.—(1) The Agency must prepare and publish a statement of its policies for complying with its public participation duties.

(2) In preparing or revising the statement the Agency must consult such persons as it considers are affected by, are likely to be affected by, or have an interest in, the statement.

(3) The Agency must—

- (a) keep the statement under review;
- (b) revise the statement when it considers necessary; and
- (c) publish any revised statement.

(4) The Agency must comply with any published statement when exercising its functions under the public participation provisions.

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

(6) In this regulation, “public participation duties” means the duties in the following provisions—

- (a) regulation 26;
- (b) regulation 29;
- (c) paragraphs 6 and 8(2) of Part 1 of Schedule 5.

Power to require the provision of information

60.—(1) For the purposes of discharging its functions under these Regulations, an appropriate authority, regulator or exemption registration authority, by notice served on any person, may require that person to provide such information in such form and within such period as is specified in the notice.

(2) A notice under paragraph (1) may require a person to provide any information on emissions where that requirement is reasonable, including the provision of information—

- (a) not in the person's possession; and
- (b) which would not usually come into the person's possession.

(3) For the purposes of this regulation the discharge by the appropriate authority of—

- (a) an obligation of the United Kingdom under the Community Treaties; or
- (b) an international obligation of the United Kingdom,

must be treated as a function of the authority under these Regulations.

(4) For the purposes of this regulation the compilation of an inventory of emissions (whether or not from a regulated facility) must be treated as a function of the regulator under these Regulations.

Directions to regulators and exemption registration authorities: general

61.—(1) An appropriate authority may give directions to a regulator or exemption registration authority of a general or specific character with respect to the carrying out of its functions under these Regulations.

(2) Without prejudice to the generality of the power in paragraph (1), a direction may direct the regulator or exemption registration authority to exercise or not to exercise—

- (a) specified powers;
- (b) its powers in specified circumstances; or
- (c) its powers in a specified manner.

(3) Except in an emergency, an appropriate authority may give a direction to the Agency under paragraph (1) only after consultation with the Agency.

(4) The regulator or exemption registration authority must comply with a direction given to it under these Regulations.

Reference of applications to an appropriate authority

62.—(1) An appropriate authority may give directions to a regulator requiring that a particular application or class of application be referred to it for determination.

(2) The regulator must—

- (a) inform the applicant of the fact that the application is being referred to the appropriate authority; and
- (b) forward to the appropriate authority any representations made in respect of the application.

(3) When an application is referred to an appropriate authority, the appropriate authority—

- (a) may afford the applicant and the regulator an opportunity of appearing before and being heard by a person appointed by the appropriate authority, and
- (b) must do so in any case where a request is duly made by the applicant or the regulator to be so heard.

(4) A request under paragraph (3)(b) must be made in writing within 15 working days after the day on which the applicant is informed that the application is being referred to the appropriate authority.

(5) A hearing under paragraph (3) is subject to paragraphs 5(2) to (6) and 6 of Schedule 6 (except paragraph 5(3)(c)) as if it were a hearing under paragraph 5(1) of that Schedule with the following modifications—

- (a) “the appellant” is to be read as “the applicant”;
- (b) “the appeal” is to be read as “the application”.

(6) On determining an application referred to it under this regulation the appropriate authority must give to the regulator a direction as to whether the regulator is to grant the application and, if so, the conditions that are to be attached to the environmental permit.

(7) In this regulation, “application” means an application—

- (a) for the grant of an environmental permit, or
- (b) for the variation of an environmental permit.

Directions to the Agency: installations outside the United Kingdom

63.—(1) This regulation applies where an appropriate authority receives information pursuant to Article 18(1) of the IPPC Directive in relation to the operation of an installation outside the United

Kingdom which is likely to have a significant negative effect on the environment of England or Wales.

(2) For the purpose of complying with Article 18(2) of the IPPC Directive, the appropriate authority must direct the Agency to take such steps as it considers appropriate to—

- (a) bring the information to the attention of persons likely to be affected by the operation of the installation; and
- (b) provide them with an opportunity to comment on the information.

Guidance to regulators and exemption registration authorities

64.—(1) An appropriate authority may issue guidance to a regulator or exemption registration authority with respect to the exercise of its functions under these Regulations.

(2) In the exercise of those functions the regulator or exemption registration authority must have regard to the guidance.

Fees and charges in relation to the exercise of regulator's functions by local authorities

65.—(1) An appropriate authority may make, and from time to time revise, a scheme prescribing—

- (a) fees payable to a regulator in respect of applications—
 - (i) for the grant of an environmental permit,
 - (ii) for the variation of an environmental permit,
 - (iii) for the transfer of an environmental permit in whole or in part,
 - (iv) for the surrender of an environmental permit in whole or in part;
 - (b) fees payable to a regulator in respect of a regulator-initiated variation; and
 - (c) charges payable to a regulator in respect of the subsistence of an environmental permit.
- (2) A scheme may in particular—
- (a) prescribe specific fees and charges or the methods by which they are to be calculated;
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
 - (c) subject to the requirements of these Regulations, provide for the time when, and the manner in which, payments required by the scheme are to be made; and
 - (d) make such incidental, supplementary and transitional provision as appears necessary or expedient to the appropriate authority.

(3) In making or revising a scheme, so far as practicable the appropriate authority must ensure that the fees and charges payable are sufficient to cover expenditure by a regulator—

- (a) in exercising its functions under these Regulations;
- (b) in making payment to any person who prepares guidance in relation to an installation or mobile plant that is—
 - (i) mentioned in regulation 32(2), or
 - (ii) specified in a direction under regulation 33;
- (c) in making payment to the Agency in relation to the exercise of the Agency's functions under regulation 58.

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(4) A scheme must provide for the payment of sums by the regulator to the Agency where those sums are related to expenditure by the Agency under regulation 58 or in preparing guidance referred to in paragraph (3)(b).

(5) If a regulator considers that an operator has failed to pay a charge specified in a scheme in respect of the subsistence of the operator's permit, the regulator may revoke or suspend the permit.

(6) A revocation or suspension must be by way of notice served under regulation 22(3) or regulation 37.

(7) In this regulation, “regulator” means a local authority on which functions are conferred by regulation 32 or by a direction under regulation 33.

Plans relating to emissions

66.—(1) Subject to paragraph (3), an appropriate authority may make plans for—

- (a) the setting of limits on the total amount, or the total amount in any period, of emissions from all or any description of source; or
- (b) the allocation of quotas relating to such emissions.

(2) If the appropriate authority allocates a quota in a plan made under paragraph (1) it may also make a scheme for the trading or other transfer of that quota.

(3) This regulation does not apply to an emission plan.

(4) In this regulation—

“emission” means the direct or indirect release of any substance from individual or diffuse sources into the air, water or land; and

“emission plan” has the meaning given in the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007^{M30}.

Marginal Citations

M30 [S.I. 2007/2325](#).

PART 7

Miscellaneous provisions

Chapter 1

Interpretation

Interpretation of this Part

67. In this Part—

“2007 transitional application” means a transitional application within the meaning of Part 7 of the 2007 Regulations;

[^{F16}“article” and “substance” have the meaning given to them in Schedule 23 to these Regulations.]

“authorisation” means an authorisation under section 13 or 14 of the 1993 Act;

“closure and after-care obligations” means any environmental permit condition—

- (a) which implements Article 13 of the Landfill Directive, or

(b) which is otherwise related to closure and after-care of a landfill site or to ensuring that it does not cause pollution;

“determination date”—

(a) for an application mentioned in regulation 70 of the 2007 Regulations (other than an application to which regulation 71 of those Regulations applied), has the meaning given in paragraph (2) of that regulation,

(b) for an application to which regulation 71 of those Regulations applied, has the meaning given in paragraph (4) of that regulation;

“discharge consent” means a consent under Chapter 2 of Part 3 of the 1991 Act;

“disposal licence” means a disposal licence issued under section 5 of the Control of Pollution Act 1974;

“existing” means in force at the relevant time;

“existing environmental permit” means an environmental permit under the 2007 Regulations in force at the relevant time;

“existing notice” means, for the purposes of Chapter 3, a notice in force at the relevant time served or given by the Agency under a former enactment in relation to—

(a) an authorisation, registration, discharge consent or groundwater permit, or

(b) the requirement for a discharge consent or groundwater permit;

“existing permit” means an existing authorisation, registration, discharge consent or groundwater permit;

“former enactment” means the 1991 Act, the 1993 Act or the 2009 Regulations;

“former PPC or waste legislation” means any provision of the following enactments repealed or revoked by the 2007 Regulations—

(a) the 1990 Act,

(b) the Waste Management Licensing Regulations 1994 ^{M31},

(c) the PPC Regulations,

(d) the Landfill (England and Wales) Regulations 2002 ^{M32};

“groundwater permit” means a permit under regulation 13 of the 2009 Regulations;

“licence” means a disposal licence or a waste management licence;

“outstanding appeal” means an appeal made, but not determined, by the relevant time;

“PPC permit” means a permit granted under regulation 10 of the PPC Regulations;

“the PPC Regulations” means the Pollution Prevention and Control (England and Wales) Regulations 2000 ^{M33};

F17
...

“registration” means a registration under section 7 or 10 of the 1993 Act;

“related activity” means any of the following activities relating to the operation of a landfill—

(a) storage or treatment of leachate;

(b) utilization or flaring of landfill gas;

“relevant time” means immediately before the coming into force of these Regulations;

“transfer notice” means any of the following notices given before the coming into force of these Regulations in respect of a transfer which, at the relevant time, had not taken effect—

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- (a) a joint notice given under paragraph 11(6)(a) of Schedule 10 to the 1991 Act for the purpose of the transfer of a discharge consent,
- (b) a notice mentioned in paragraph (a) given for the purpose of the transfer of a groundwater permit;

“transitional application” means any of the following applications not determined by the relevant time—

- (a) an application for an authorisation or registration,
- (b) an application for the variation of an authorisation or registration,
- (c) an application under section 16A of the 1993 Act for the transfer of an authorisation,
- (d) an application under section 12 of the 1993 Act to cancel a registration,
- (e) an application under section 17 of the 1993 Act to revoke an authorisation,
- (f) an application for a discharge consent,
- (g) an application for the variation of a discharge consent,
- (h) an application for a groundwater permit; and

“waste management licence” means a licence granted under section 35 of the 1990 Act.

Textual Amendments

- F16** Words in [reg. 67](#) inserted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **9(2)**
- F17** Words in [reg. 67](#) revoked (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **9(3)** (with [reg. 18\(1\)](#))

Marginal Citations

- M31** 1994/1056, amended by [S.I. 1995/288](#), 1995/1950, 1996/593, 1996/634, 1996/972, 1996/1279, 1997/2203, 1998/606, 1998/2746, 2000/1973, 2002/674, 2002/1087 (W. 114), 2002/1559, 2002/2980, 2003/595, 2003/780 (W. 91), 2003/2635, 2004/70 (W. 6), 2004/3276, 2005/894, 2005/1728, 2005/1806 (W. 138), 2005/2900, 2006/937, 2006/3315, 2007/1156 and 2007/2596.
- M32** [S.I. 2002/1559](#), revoked by [S.I. 2007/3538](#).
- M33** [S.I. 2000/1973](#), revoked by [S.I. 2007/3538](#).

Chapter 2

Further provision – waste and extractive waste

Further provision in relation to waste and extractive waste

- 68.**—(1) Schedule 25 (waste and extractive waste) has effect.
- (2) Section 33(1)(a) of the 1990 Act (prohibition on unauthorised deposit of waste) ^{M34}—
- (a) does not apply to an operation which—
 - (i) falls within a description in Part 3 of Schedule 25, and
 - (ii) meets the conditions specified in that Part for an operation of that description; and
 - (b) does not apply to extractive waste at any time before the requirement for an environmental permit under regulation 12 applies in respect of the deposit of that waste.

Marginal Citations

M34 1990 c. 43; section 33(1)(a) was amended by S.I. 2007/3538, **Schedule 21**, paragraph 4(2) and by S.I. 2009/1799, **Schedule 2**, paragraph 1(3)(a).

Chapter 3

Transitional provisions - former enactments

Existing permits

- 69.** On the coming into force of these Regulations an existing permit—
- (a) becomes an environmental permit authorising the operation of a regulated facility under these Regulations; and
 - (b) has effect subject to any conditions that applied to it at the relevant time.

Site plans not required for existing permits

- 70.** Regulation 14(4) does not apply in relation to a regulated facility—
- (a) authorised by an environmental permit by virtue of regulation 69(a); or
 - (b) authorised by an environmental permit granted on the determination of—
 - (i) a transitional application, or
 - (ii) an outstanding appeal.

Review of existing groundwater permits

71.—(1) Any environmental permit that, at the relevant time, was a permit within the meaning of the 2009 Regulations and was granted before the coming into force of those Regulations must be reviewed before 22nd December 2012.

(2) The regulator must on review assess compliance with the conditions of the permit.

(3) If the operator fails to comply with any condition of the permit, the regulator must take appropriate steps to ensure compliance.

^{F18}Previously excluded radioactive material and radioactive waste

72A.—(1) Paragraph (3) applies to a person (“A”) who was carrying on an activity (“the continuing activity”) described in paragraph (2) immediately before 1st October 2011 and who continues to carry on the activity on or after that date.

(2) The continuing activity referred to in paragraph (1) means an activity carried on by A—

- (a) in respect of a substance or article which—
 - (i) immediately before 1st October 2011 was not defined as radioactive material or radioactive waste; but
 - (ii) on that date became defined as radioactive material or radioactive waste by virtue of the amendments made to those definitions on that date (“the relevant amendments”);and
- (b) which on that date became a radioactive substances activity described in paragraph 11(2), (4) or (5) of Part 2 of Schedule 23 by virtue of the relevant amendments.

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(3) Where this paragraph applies, A is exempt from the requirement to hold an environmental permit in respect of the continuing activity until the end time set out in regulation 72C.

Textual Amendments

F18 Regs. 72A-72D inserted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **11**

Previously exempt radioactive substances activities

72B.—(1) Paragraph (3) applies to a person (“A”) who was carrying on an activity (“the continuing activity”) described in paragraph (2) immediately before 1st October 2011 and who continues to carry on the activity on or after that date.

(2) The continuing activity referred to in paragraph (1) means an activity—

- (a) described in paragraph 11(2), (4) or (5) of Part 2 of Schedule 23; and
- (b) in respect of which, immediately before 1st October 2011, A was exempted under regulation 72 (as in force at that time) from the requirement to hold an environmental permit (“the existing exemption”).

(3) Where this paragraph applies, the existing exemption continues to apply to A until the time set out in paragraph (4), subject to any conditions which applied to that exemption.

(4) The time referred to in paragraph (3) is—

- (a) if A does not become exempt in respect of the continuing activity under a radioactive substances exemption before 1st April 2012, the end time set out in regulation 72C; or
- (b) if A does become so exempt, the time at which the exemption begins to apply.

Textual Amendments

F18 Regs. 72A-72D inserted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **11**

End time: regulations 72A and 72B

72C.—(1) For the purposes of regulations 72A and 72B, the end time is—

(a) where, before 1st April 2012, A makes a permit application—

- (i) if that application is granted, the time of grant;
- (ii) if that application is refused and—
 - (aa) A appeals against the refusal under regulation 31, the time at which the appeal is determined or withdrawn;
 - (bb) A does not appeal against the refusal, the end of the day which is the final appeal date;

or

(b) where no such application is made, the earliest of—

- (i) 1st April 2012;
- (ii) the time at which A ceases to carry on the continuing activity; or
- (iii) for the purposes of regulation 72A only, the time a radioactive substances exemption first applies to A in respect of the continuing activity.

(2) In paragraph (1)—

“final appeal date” means the last day on which an appeal against a refusal to grant an environmental permit could have been brought under regulation 31, but not including any extension of the time limit for making an appeal allowed by the appropriate authority under paragraph 3(2) of Schedule 6; and

“permit application” means—

- (a) an application for an environmental permit under regulation 13 in respect of (as applicable) the continuing activity under regulation 72A or 72B; or
- (b) an application under regulation 20 for a variation of an existing environmental permit, in respect of the inclusion in the permit of that continuing activity.”

Textual Amendments

F18 Regs. 72A-72D inserted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), regs. 1(b), **11**

Existing radioactive substances permits

72D.—(1) Paragraph (4) applies to a person (“A”) who was carrying on an activity described in paragraph (2) (“the continuing excluded activity”) or paragraph (3) (“the continuing exempt activity”) immediately before 1st October 2011 and who—

- (a) continues to carry on that activity after that date; and
- (b) holds an environmental permit in respect of the activity (“permit A”).

(2) The continuing excluded activity referred to in paragraph (1) means an activity which—

- (a) was a radioactive substances activity immediately before 1st October 2011; but
- (b) ceases to be such an activity on that date because it was carried on in respect of a substance or article which ceased to be defined as radioactive material or radioactive waste on that date by virtue of the amendments made to the definitions in these Regulations of radioactive material and radioactive waste on that date.

(3) The continuing exempt activity referred to in paragraph (1) means an activity—

- (a) described in paragraph 11(2), 11(4) or 11(5) of Part 2 of Schedule 23 to these Regulations; and
- (b) in respect of which A—
 - (i) immediately before 1st October 2011, was not exempt under regulation 72 (as it was in force at that time); but
 - (ii) is exempt under a radioactive substances exemption.

(4) Where this paragraph applies, subject to paragraph (5), A may surrender any part of permit A that applies to the continuing excluded activity or the continuing exempt activity by notification to the regulator.

(5) A notification under paragraph (4) must be made to the regulator on or before 31st March 2012.

(6) Regulation 24(3) to (7) applies as if the notification were made under that regulation.]

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Textual Amendments

F18 Regs. 72A-72D inserted (1.10.2011) by The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), regs. 1(b), **11**

Radioactive substances exemption orders

^{F19}72.

Textual Amendments

F19 Reg. 72 revoked (1.10.2011) by The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), regs. 1(b), **10** (with reg. 18(1))

Exempt water discharge activities

73.—(1) In this regulation, “small sewage effluent water discharge activity” means the discharge from a sewage treatment plant of 5 cubic metres per day or less of sewage effluent into inland freshwaters, coastal waters or relevant territorial waters.

(2) On the coming into force of these Regulations, a small sewage effluent water discharge activity authorised by an existing permit is taken to be an exempt facility.

Exempt groundwater activities

74.—(1) In this regulation, “small sewage effluent groundwater activity” means the discharge from a septic tank or sewage treatment plant of 2 cubic metres per day or less of sewage effluent that results in the input of pollutants to groundwater.

(2) On the coming into force of these Regulations, a small sewage effluent groundwater activity authorised by an existing permit is taken to be an exempt facility.

(3) From the coming into force of these Regulations until 1st January 2012, a person carrying on a groundwater activity taken to be an exempt facility under paragraph (2) does not require an environmental permit unless a notice is served on that person under paragraph 10 of Schedule 22 and has taken effect.

(4) From the coming into force of these Regulations until 1st January 2012, a small sewage effluent groundwater activity that, at the relevant time, was not authorised by an existing permit does not need to be authorised by an environmental permit or registered as an exempt facility unless—

- (a) a notice was served under the 2009 Regulations prohibiting the carrying on of the activity and that notice continues in effect under these Regulations; or
- (b) a notice under paragraph 10 of Schedule 22 is served on the person carrying on the activity and the notice has taken effect.

(5) A small sewage effluent groundwater activity that is begun after the coming into force of these Regulations does not need to be authorised by an environmental permit or registered as an exempt facility until 1st January 2012 unless a notice under paragraph 10 of Schedule 22 is served on the person carrying on the activity and the notice has taken effect.

(6) On and after 1st January 2012, a person must not carry on a small sewage effluent groundwater activity unless it is—

- (a) authorised by an environmental permit; or
- (b) registered as an exempt facility.

Transitional applications

75.—(1) On the coming into force of these Regulations, a transitional application is taken to be an application for the grant, variation, transfer or surrender of an environmental permit.

(2) The application is taken to be made on the date the transitional application was made.

(3) Anything done under a former enactment in relation to a transitional application before the coming into force of these Regulations is taken to be done under these Regulations.

(4) The public participation provisions apply to a transitional application under a former enactment unless—

- (a) the transitional application relates to a radioactive substances activity; or
- (b) under the former enactment there was no requirement for public participation in the application process.

Transfer notices under former enactments

76.—(1) On the coming into force of these Regulations, a transfer notice is taken to be a joint notification under regulation 21(4).

(2) The joint notification is taken to be made on the date the transfer notice was made.

(3) Anything done under a former enactment in relation to a transfer notice before the coming into force of these Regulations is taken to be done under these Regulations.

Existing notices under former enactments

77. On the coming into force of these Regulations—

- (a) an existing notice given under section 86(1)(b) of the 1991 Act in relation to a discharge from a highway drain or a discharge into the waters of any lake or pond which are not inland freshwaters becomes an environmental permit and has effect subject to any conditions that applied to it at the relevant time;
- (b) any requirements imposed under an existing notice served under section 20 of the 1993 Act in relation to an existing authorisation or registration which becomes an environmental permit by virtue of regulation 69(a) are taken to be conditions of the environmental permit;
- (c) an existing notice served under section 90B of the 1991 Act ^{M35} or section 21 of the 1993 Act is taken to be an enforcement notice served under these Regulations;
- (d) an existing notice served under section 22 of the 1993 Act is taken to be a suspension notice served under these Regulations;
- (e) an existing notice served under regulation 18 of the 2009 Regulations prohibiting a course of action is taken to be a prohibition notice served under these Regulations; and
- (f) each of the following existing notices is taken to be a revocation notice served under these Regulations—
 - (i) an existing notice served under paragraph 7(2)(a) of Schedule 10 to the 1991 Act (discharge consents),
 - (ii) an existing notice served under regulation 16(5) of the 2009 Regulations (groundwater permits),
 - (iii) an existing notice given under section 12(2)(a) of the 1993 Act (registrations) in relation to the cancellation of a registration,
 - (iv) an existing notice given under section 17(3)(a) of the 1993 Act (authorisations) in relation to the revocation of an authorisation.

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Marginal Citations

M35 Section 90B was inserted by the Environment Act 1995, section 120 and Schedule 22, paragraph 142.

Outstanding appeals against existing notices

78.—(1) Any outstanding appeal made under a former enactment against an existing notice is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the former enactment.

(3) Anything done under the former enactment in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the former enactment, in which case that time limit applies.

Appeals under these Regulations against existing notices

79.—(1) An appeal may be made under these Regulations against an existing notice if, by the relevant time, the time for making an appeal under the former enactment had not expired.

(2) If an appeal is made under these Regulations against an existing notice, the applicable time limit for giving notice of appeal runs from the date the existing notice was served under the former enactment.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the former enactment, that time limit.

Decisions under former enactments

80. A decision by a regulator or appropriate authority under a former enactment is taken to be made under these Regulations.

Outstanding appeals against decisions under former enactments

81.—(1) Any outstanding appeal made under a former enactment against a decision under that enactment is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the former enactment.

(3) Anything done under the former enactment in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the former enactment, in which case that time limit applies.

Appeals under these Regulations against decisions under former enactments

82.—(1) An appeal may be made under these Regulations against a decision under a former enactment if, by the relevant time, the time for making an appeal under the former enactment had not expired.

(2) If an appeal is made under these Regulations against a decision made under a former enactment, the applicable time limit for giving notice of appeal runs from the date the decision under the former enactment was made.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the former enactment, that time limit.

Existing directions under former enactments

83. On the coming into force of these Regulations—

- (a) an existing direction given to the Agency by the Secretary of State under section 23(1) of the 1993 Act is taken to be given under regulation 61; and
- (b) an existing direction given to the Agency by the Secretary of State under section 24(1) of the 1993 Act is taken to be given under regulation 62.

Public registers under former enactments

84.—(1) On the coming into force of these Regulations, the following information is taken to be information contained on a public register under these Regulations—

- (a) any information that, at the relevant time—
 - (i) was kept under section 39 of the 1993 Act, and
 - (ii) was publicly available;
- (b) any information in relation to discharge consents or groundwater permits that, at the relevant time, was kept under section 190 of the 1991 Act.

(2) The following decisions are taken to be final confidentiality decisions for the purposes of Part 5—

- (a) a decision by the Agency under section 191B of the 1991 Act ^{M36} that information is commercially confidential in relation to any person;
- (b) a decision by the Agency under section 39(1) of the 1993 Act not to disclose information relating to any relevant process or trade secret.

(3) For the purposes of regulation 55, a final confidentiality decision by virtue of paragraph (2) is taken to be made on the coming into force of these Regulations.

(4) The following directions are taken to be given under regulation 47(1)—

- (a) a direction given under section 191A of the 1991 Act ^{M37};
- (b) a direction given under section 25 of the 1993 Act.

(5) A notification by the Agency under section 191A(3) of the 1991 Act is taken to be a notification under regulation 47(2).

Marginal Citations

M36 Section 191B was inserted by the [Environment Act 1995 \(c. 25\)](#), [section 120](#) and Schedule 22, paragraph 170.

M37 Section 191A was inserted by the [Environment Act 1995 \(c. 25\)](#), [section 120](#) and Schedule 22, paragraph 170.

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Recovery of expenses for disposal of radioactive waste

85.—(1) If, before the coming into force of these Regulations, the regulator disposed of radioactive waste in the exercise of its powers under section 30 of the 1993 Act but did not recover all expenses reasonably incurred by it under that section, the regulator may recover expenses under paragraph 4(2) of Part 3 of Schedule 23 to these Regulations.

(2) If, before the coming into force of these Regulations, the regulator disposed of radioactive waste in the exercise of its powers under section 30A of the 1993 Act ^{M38} but did not recover all expenses reasonably incurred by it under that section, the regulator may recover expenses under paragraph 8(2) of Part 4 of Schedule 23 to these Regulations.

Marginal Citations

M38 Section 30A was inserted by [S.I. 2005/2686](#).

Chapter 4

Transitional provisions – the 2007 Regulations and former PPC or waste legislation

Existing environmental permits

- 86.** On the coming into force of these Regulations, an existing environmental permit—
- (a) becomes an environmental permit authorising the operation of a regulated facility under these Regulations; and
 - (b) has effect subject to any conditions that applied to it at the relevant time.

Applications under the 2007 Regulations

87.—(1) If an application for the grant, variation, transfer or surrender of an environmental permit under the 2007 Regulations was not determined by the relevant time, the application is taken to be made under these Regulations.

(2) The application is taken to be made on the date the application was made under the 2007 Regulations.

(3) Anything done under the 2007 Regulations in relation to the application before the coming into force of these Regulations is taken to be done under these Regulations.

Applications for grant of PPC permit or waste management licence

88.—(1) If the determination date for an application mentioned in regulation 70(1)(a) or (b) of the 2007 Regulations was not reached by the relevant time, the application is taken to be an application for the grant of an environmental permit.

(2) The application is taken to be made on the date the application was made under former PPC or waste legislation.

(3) Anything done under former PPC or waste legislation in relation to the application before the coming into force of these Regulations is taken to be done under these Regulations.

2007 transitional applications for grant of PPC permit, other than in relation to landfill

- 89.**—(1) This regulation applies where, by the relevant time—

- (a) an existing licence, other than a licence the whole or part of which authorises the operation of a landfill and the carrying on of any related activity, was the subject of an application to which regulation 71 of the 2007 Regulations applied; and
- (b) the determination date had not been reached.
- (2) On the coming into force of these Regulations—
 - (a) the application is taken to be an application for the grant of an environmental permit; and
 - (b) pending determination of the application, the licence has effect—
 - (i) as if it were an environmental permit, and
 - (ii) subject to any conditions that applied to it at the relevant time.
- (3) If on the determination of the application an environmental permit is granted, the licence—
 - (a) becomes an environmental permit; and
 - (b) has effect subject to any conditions imposed on it under these Regulations.
- (4) If the application is withdrawn, or on the determination of the application an environmental permit is not granted, the licence no longer has effect.

2007 transitional applications for grant of PPC permit in relation to landfill

- 90.**—(1) This regulation applies where, by the relevant time —
- (a) an existing licence the whole or part of which authorises the operation of a landfill and the carrying on of any related activity was the subject of an application to which regulation 71 of the 2007 Regulations applied; and
 - (b) the determination date had not been reached.
 - (2) On the coming into force of these Regulations—
 - (a) the application is taken to be an application for the grant of an environmental permit; and
 - (b) pending determination of the application, the licence (or that part of the licence relating to the landfill and any related activity) has effect—
 - (i) as if it were an environmental permit, and
 - (ii) subject to any conditions that applied to it at the relevant time.
 - (3) If on the determination of the application an environmental permit is granted, the licence—
 - (a) becomes an environmental permit authorising the operation of the landfill and the carrying on of any related activity; and
 - (b) has effect subject to any conditions imposed on it under these Regulations.
 - (4) If the application is withdrawn, or on the determination of the application an environmental permit is not granted, the licence (or that part of the licence relating to the landfill and any related activity)—
 - (a) becomes an environmental permit authorising the carrying on of any related activity; and
 - (b) has effect subject to closure and after-care obligations.

2007 transitional applications for grant of PPC permit in relation to landfill: applications determined under the 2007 Regulations

- 91.**—(1) This regulation applies where—
- (a) an existing licence (or any part of an existing licence) authorising the operation of a landfill and the carrying on of any related activity was the subject of an application to which regulation 71 of the 2007 Regulations applied;

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- (b) the application was determined under those Regulations; and
 - (c) on the determination date, the licence did not become an environmental permit under those Regulations.
- (2) On the coming into force of these Regulations, the licence (or that part of the licence relating to the landfill and any related activity)—
- (a) becomes an environmental permit authorising the carrying on of any related activity; and
 - (b) has effect subject to closure and after-care obligations.

2007 transitional applications not relating to grant of PPC permit

92.—(1) If a PPC permit or waste management licence was the subject of a 2007 transitional application for variation, transfer or surrender and by the relevant time the determination date had not been reached—

- (a) on the coming into force of these Regulations, the permit or licence—
 - (i) becomes an environmental permit, and
 - (ii) has effect subject to any conditions that applied to it at the relevant time; and
- (b) the application is taken to be an application for the variation, transfer or surrender of an environmental permit under these Regulations.

(2) If a waste management licence was the subject of a 2007 transitional application for modification and by the relevant time the determination date had not been reached—

- (a) on the coming into force of these Regulations, the licence—
 - (i) becomes an environmental permit, and
 - (ii) has effect subject to any conditions that applied to it at the relevant time; and
- (b) the application is taken to be an application for the variation of an environmental permit under these Regulations.

(3) The application is taken to be made on the date the 2007 transitional application was made.

(4) Anything done before the coming into force of these Regulations under the 2007 Regulations or former PPC or waste legislation in relation to a 2007 transitional application is taken to be done under these Regulations.

Notifications of surrender

93. On the coming into force of these Regulations, a notification that was given under regulation 24(2) of the 2007 Regulations that had not taken effect by the relevant time is taken to be a notification under regulation 24(2).

Existing notices under the 2007 Regulations or former PPC or waste legislation

94. On the coming into force of these Regulations—

- (a) the following are taken to be enforcement notices—
 - (i) an existing enforcement notice served under the 2007 Regulations,
 - (ii) an existing notice served under regulation 24 of the PPC Regulations,
 - (iii) an existing notice served under section 42(5) of the 1990 Act;
- (b) the following are taken to be suspension notices—
 - (i) an existing suspension notice served under the 2007 Regulations,
 - (ii) an existing notice served under regulation 25 of the PPC Regulations,

- (iii) an existing notice served under section 38(6) of the 1990 Act;
- (c) the following are taken to be revocation notices—
 - (i) an existing revocation notice served under the 2007 Regulations,
 - (ii) an existing notice served under regulation 21 of the PPC Regulations,
 - (iii) an existing notice served under section 38(3) or (4) of the 1990 Act;
- (d) an existing closure notice served under regulation 16 of the Landfill (England and Wales) Regulations 2002 is taken to be a landfill closure notice.

Outstanding appeals against existing notices

95.—(1) Any outstanding appeal made under the 2007 Regulations or former PPC or waste legislation against an existing notice mentioned in regulation 94 is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the 2007 Regulations or former PPC or waste legislation.

(3) Anything done under the 2007 Regulations or former PPC or waste legislation in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, in which case that time limit applies.

Appeals under these Regulations against existing notices

96.—(1) An appeal may be made under these Regulations against an existing notice mentioned in regulation 94 if, by the relevant time, the time for making an appeal under the 2007 Regulations or former PPC or waste legislation had not expired.

(2) If an appeal is made under these Regulations against an existing notice, the applicable time limit for giving notice of appeal runs from the date the existing notice was served under the 2007 Regulations or former PPC or waste legislation.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, that time limit.

Decisions under the 2007 Regulations or former PPC or waste legislation

97. The following decisions are taken to be made under these Regulations—

- (a) a decision by a regulator or appropriate authority under the 2007 Regulations;
- (b) a decision by a regulator or appropriate authority under former PPC or waste legislation.

Outstanding appeals against decisions under the 2007 Regulations or former PPC or waste legislation

98.—(1) Any outstanding appeal made under the 2007 Regulations or former PPC or waste legislation against a decision mentioned in regulation 97 is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the 2007 Regulations or former PPC or waste legislation.

Status: Point in time view as at 01/10/2011.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Environmental Permitting (England and Wales) Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(3) Anything done under the 2007 Regulations or former PPC or waste legislation in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, in which case that time limit applies.

Appeals under these Regulations against decisions under the 2007 Regulations or former PPC or waste legislation

99.—(1) An appeal may be made under these Regulations against a decision mentioned in regulation 97 if, by the relevant time, the time for making an appeal under the 2007 Regulations or former PPC or waste legislation had not expired.

(2) If an appeal is made under these Regulations against a decision mentioned in regulation 97, the applicable time limit for giving notice of appeal runs from the date the decision was made under the 2007 Regulations or former PPC or waste legislation.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, that time limit.

Other existing notices and instruments

100.—(1) On the coming into force of these Regulations—

- (a) an existing notice served under regulation 26(3) of the PPC Regulations is taken to be served under regulation 57(3);
- (b) an existing notice served under regulation 28(1) of the PPC Regulations is taken to be a notice served under regulation 60(1); and
- (c) any existing instrument served or given under the 2007 Regulations and not otherwise provided for in this Chapter is taken to be served or given under these Regulations.

(2) An existing notice or existing instrument remains in force—

- (a) for the period (if any) specified in it; or
- (b) until it is withdrawn, revoked or expires under these Regulations.

(3) In this regulation, “instrument” has the meaning given in regulation 10 of the 2007 Regulations.

Existing directions under the 2007 Regulations

101.—(1) On the coming into force of these Regulations, any existing direction given to a regulator by the appropriate authority under any of the following provisions of the 2007 Regulations is taken to be given under the equivalent provision in these Regulations—

- (a) regulation 31(7);
- (b) regulation 33(1);
- (c) regulation 47(1) or (3);
- (d) regulation 56(1);
- (e) regulation 61;
- (f) regulation 62(1) or (6);
- (g) regulation 63(2).

(2) Any information excluded from a public register pursuant to an existing direction given under regulation 47(1) of the 2007 Regulations is taken to be notified under regulation 47(2) of these Regulations.

Public registers

102.—(1) Any information that, at the relevant time, was contained in a public register maintained by a regulator under the 2007 Regulations, or was deemed to be information kept on that register, is taken to be information contained in the public register maintained by the regulator under these Regulations.

(2) Any information that, at the relevant time, was within a regulator's possession for the purposes of regulation 46 of the 2007 Regulations but was not entered on a public register under those Regulations is taken to be in the regulator's possession for the purposes of these Regulations and must be entered on the register as soon as reasonably practicable.

Existing exempt waste operations

103.—(1) This regulation applies to any establishment or undertaking which was carrying on an exempt waste operation under the 2007 Regulations as in force on 5th April 2010.

(2) The establishment or undertaking is taken to carry on an exempt waste operation under these Regulations until—

- (a) the date mentioned in paragraph (3); or
 - (b) if before that date the waste operation ceases to be an exempt waste operation within the meaning of the 2007 Regulations as in force on 5th April 2010, the date on which it ceases to be such.
- (3) The date mentioned in this paragraph is—
- (a) if an application for the grant or variation of an environmental permit is made in relation to the waste operation on or before the date shown in the table set out below for the operation (“the indicated date”)—
 - (i) if the application is granted, the date of the grant,
 - (ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn, or
 - (iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations;
 - (b) if the establishment or undertaking seeks to be registered in relation to the waste operation on or before the indicated date, the date of registration; or
 - (c) otherwise, the indicated date.

Waste operation	Date
A waste operation described in paragraph 9, 10, 12 or 19 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land	1st October 2011
A waste operation described in paragraph 13 or 21 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land	6th April 2012

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A waste operation described in paragraph 7 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land 1st October 2012

A waste operation described in paragraph 4 to 6, 11, 14, 15, 17, 18, 20, 22, 23, 25, 29 to 32, 38, 40 to 42 or 46 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of waste on agricultural land 1st October 2012

A waste operation described in paragraph 2, 3, 8, 24 or 43 to 45 of Part 1 of previous Schedule 3 1st October 2013

A waste operation described in paragraph 7, 9, 10, 12, 13, 16, 19, 21, 28, 36, 37 or 47 of Part 1 of previous Schedule 3 that involves the disposal or recovery of agricultural waste on agricultural land 1st October 2013

Any other waste operation described in Part 1 of previous Schedule 3 that involves the disposal or recovery of waste on agricultural land 1st October 2013

(4) In this regulation—

“agricultural land” means land used for agriculture within the meaning of section 109(3) of the Agriculture Act 1947^{M39};

“previous Schedule 3” means Schedule 3 to the 2007 Regulations as in force on 5th April 2010;

“registered” has the meaning given in paragraph 1 of Schedule 2; and

“relevant particulars” has the meaning given in paragraph 6(3) of Schedule 2.

Marginal Citations

M39 1947 c. 48.

Existing Part A(1) installations

104. On the coming into force of these Regulations, an installation that, at the relevant time, carried on a Part A(1) activity under the 2007 Regulations by virtue of paragraph 2(4) of Part 1 of Schedule 1 to those Regulations is taken to be a Part A(1) installation for the purpose of these Regulations.

Existing mining waste operations

105.—(1) Regulation 12(1) does not apply to an existing mining waste operation involving an existing mining waste facility until the date mentioned in paragraph (2).

(2) The date is—

(a) if an application for the grant or variation of an environmental permit is made on or before 1st May 2011—

(i) if the application is granted, the date of the grant,

(ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn,

(iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations, or

- (iv) if the application is for the grant or variation of an environmental permit in relation to a Category A mining waste facility that is an existing mining waste facility and the application is refused pursuant to paragraph 14(2) of Schedule 20, the date of the refusal; or
- (b) if no such application is made, 1st May 2011.
- (3) Where an existing mining waste operation is not covered by paragraph (1), regulation 12(1) does not apply to that operation until the date mentioned in paragraph (4).
- (4) The date is—
 - (a) if an application for the grant or variation of an environmental permit is made on or before 30th December 2010—
 - (i) if the application is granted, the date of the grant,
 - (ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn, or
 - (iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations; or
 - (b) if no such application is made, 30th December 2010.
- (5) In this regulation, “existing mining waste operation” means a mining waste operation subsisting on 1st May 2008.

Chapter 5

Savings and consequential provisions

Savings

106.—(1) Despite the revocation of the 2007 Regulations, and the revocation of regulation 12(10) of the PPC Regulations by the 2007 Regulations, any condition implied in a permit by that regulation that continued in effect under the 2007 Regulations and had effect at the relevant time continues to have effect under these Regulations.

(2) Despite the revocation of regulation 44 of the End-of-Life Vehicles Regulations 2003 by the 2007 Regulations, any modification to a waste management licence that continued in effect under the 2007 Regulations and had effect at the relevant time continues to have effect under these Regulations.

(3) Despite the amendments made by regulation 6 of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which amend regulation 38 of the 2007 Regulations), regulation 38(2) of the 2007 Regulations, as in force at the relevant time, continues in force for the purposes of regulation 103 of these Regulations.

(4) Despite the amendments made by regulation 13(2) of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which amend section 41 of the 1995 Act by omitting subsection (2A) ^{M40} and by omitting the definition of “relevant environmental licence” in subsection (10)), those subsections, as in force at the relevant time, continue in force for the purposes of regulation 103 of these Regulations.

(5) Despite the substitution made by regulation 13(3) of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which substitutes paragraph (j) in the definition of “environmental licence” in section 56(1) of the 1995 Act), the definition of “environmental licence” in that paragraph, as in force at the relevant time, continues in force for the purposes of regulation 103 of these Regulations.

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Marginal Citations

M40 Subsection (2A) was inserted by [S.I. 2006/937](#).

Consequential amendments

107. Schedule 26 (consequential amendments) has effect.

Revocations

108.—(1) The instruments in Schedule 27 (revocations) are revoked to the extent specified.

(2) Despite the revocation of regulations 10 and 11 of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009^{M41}, and of Schedules 2 and 3 to the 2007 Regulations, those Schedules (as in force at the relevant time) continue in force for the purpose of regulation 103 of these Regulations.

(3) Despite the revocation of regulation 68A of the 2007 Regulations^{M42}, a condition implied in a permit by that regulation that had effect at the relevant time continues to have effect under these Regulations.

(4) Despite the revocation of regulation 69(5) and (6) of the 2007 Regulations, a condition implied in a permit by regulation 69(6) of those Regulations that had effect at the relevant time continues to have effect under these Regulations.

Marginal Citations

M41 [S.I. 2009/3381](#).

M42 [Regulation 68A](#) was inserted by [S.I. 2009/890](#).

Repeals

109.—(1) The enactments in Schedule 28 (repeals) are repealed to the extent specified.

(2) Despite its repeal by these Regulations, Schedule 10 to the 1991 Act continues in force, subject to the following modifications, insofar as it provides for the vesting of a discharge consent or groundwater permit on the death of the holder of a consent or permit—

- (a) a discharge consent or groundwater permit is taken to be an environmental permit authorising the carrying on of a stand-alone water discharge activity or stand-alone groundwater activity;
- (b) the holder of the consent or groundwater permit is taken to be the operator of the regulated facility;
- (c) the vesting of a consent or groundwater permit in a person on the death of the holder of a consent or groundwater permit is taken to be the granting of an environmental permit under these Regulations;
- (d) the person in whom a consent or groundwater permit vests is taken to be the operator of the regulated facility;
- (e) a making of a discharge is taken to be the carrying on of a water discharge activity or groundwater activity, whichever is applicable in the circumstances.

(3) Despite its repeal by these Regulations, section 88 of the 1991 Act continues in force so far as necessary for continuing to give effect to Schedule 10 to that Act.

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Department for Environment, Food and Rural
Affairs

Jim Fitzpatrick
Minister of State

one of the Welsh Ministers

Jane Davidson
Minister for Environment, Sustainability and
Housing

Status:

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