

2014 No. 2852

ENVIRONMENTAL PROTECTION, ENGLAND

**The Environmental Permitting (England and Wales)
(Amendment) (England) Regulations 2014**

<i>Made</i>	- - - -	<i>23rd October 2014</i>
<i>Laid before Parliament</i>		<i>27th October 2014</i>
<i>Coming into force</i>	- -	<i>1st January 2015</i>

The Secretary of State has in accordance with section 2(4) of the Pollution Prevention and Control Act 1999(a) consulted—

- (a) the Environment Agency;
- (b) such bodies or persons appearing to the Secretary of State to be representative of the interests of local government, industry, agriculture and small businesses as the Secretary of State considers appropriate; and
- (c) such other bodies or persons as the Secretary of State considers appropriate.

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999.

Citation, commencement and application

1. These Regulations—

- (a) may be cited as the Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2014;
- (b) come into force on 1st January 2015; and
- (c) apply in relation to England only.

Amendment of the Environmental Permitting (England and Wales) Regulations 2010

2. The Environmental Permitting (England and Wales) Regulations 2010(b) are amended in accordance with regulations 3 to 12.

Regulation 2 (interpretation: general)

3. In regulation 2(1) after the definition of “exempt water discharge activity” insert—

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

(a) 1999 c.24. Section 2(4)(a) was amended by article 4 of, and paragraphs 394 and 395 of Schedule 2 to, the Natural Resources Body for Wales (Function) Order 2013 (S.I. 2013/755)(W.90). There are other amendments not relevant to these Regulations.

(b) S.I. 2010/675, relevant amendments were made by S.I. 2012/630, S.I. 2013/755 (W.90) and S.I. 2014/255.

Regulation 5 (interpretation: exempt facilities)

4. In regulation 5(1)—

(a) in the definition of “exempt groundwater activity”—

(i) for paragraph (a) substitute—

“(a) a stand-alone groundwater activity that meets the requirements of—

(i) in relation to Wales only, paragraph 5 of Schedule 2;

(ii) in relation to England only, paragraph 5A of Schedule 2; or”;

(ii) for paragraph (b)(iii) substitute—

“(iii) meets the requirements of—

(aa) in relation to Wales only, paragraph 5 of Schedule 2, or

(bb) in relation to England only, paragraph 5A of Schedule 2;”;

(b) for the definition of “exempt water discharge activity” substitute—

““exempt water discharge activity” means a stand-alone water discharge activity that meets the requirements of—

(i) in relation to Wales only, paragraph 4 of Schedule 2;

(ii) in relation to England only, paragraph 4A of Schedule 2.”.

Regulation 60 (power to require the provision of information)

5. In regulation 60(1) for “regulator or exemption registration authority” substitute “regulator, exemption registration authority or exemption authority”.

Regulation 61 (directions to regulators and exemption registration authorities: general)

6.—(1) In regulation 61 for the heading substitute “Directions to regulators, exemption registration authorities and exemption authorities: general”.

(2) In regulation 61(1), (2) and (4) for “regulator or exemption registration authority”, in each place it occurs, substitute “regulator, exemption registration authority or exemption authority”.

Regulation 64 (guidance to regulators and exemption registration authorities)

7.—(1) In regulation 64 for the heading substitute “Guidance to regulators, exemption registration authorities and exemption authorities”.

(2) In regulation 64(1) and (2) for “regulator or exemption registration authority”, in each place it occurs, substitute “regulator, exemption registration authority or exemption authority”.

Regulation 74 (exempt groundwater activities)

8. For regulation 74(6) substitute—

“(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;

(b) registered as an exempt facility; or

(c) in relation to England only, on and after 1st January 2015, an exempt activity that fulfils the requirements of paragraph 5A of Schedule 2.”

Schedule 2 (exempt facilities: general)

9. In Schedule 2—

(a) in paragraph 1 (interpretation: general)—

- (i) for the heading substitute “Interpretation and application: general”;
- (ii) after sub-paragraph (1) insert—
 - “(2) Paragraphs 4 and 5 apply in relation to Wales only;
 - (3) Paragraphs 4A and 5A apply in relation to England only.”;
- (b) in paragraph 2 (Interpretation: exemption registration authority)—
 - (i) for the heading substitute “Interpretation: exemption registration authority and exemption authority”;
 - (ii) for sub-paragraph (4) substitute—
 - “(4) In relation to Wales only the NRBW is the exemption registration authority in relation to—
 - (a) a water discharge activity falling within a description in Part 2 of Schedule 3; and
 - (b) a groundwater activity falling within a description in Part 3 of Schedule 3.”;
 - (iii) for sub-paragraph (5) substitute—
 - “(5) In relation to England only—
 - (a) the Agency is the exemption registration authority in relation to—
 - (i) a water discharge activity falling within a description in paragraph 1 of Part 2 of Schedule 3; and
 - (ii) a groundwater activity falling within a description in paragraphs 2 or 4 of Part 3 of Schedule 3.
 - (b) the Agency is the exemption authority in relation to—
 - (i) a water discharge activity falling within a description in paragraph 2A of Part 2 of Schedule 3; and
 - (ii) a groundwater activity falling within a description in paragraph 3A of Part 3 of Schedule 3.”;
- (c) in paragraph 4 (exempt water discharge activities) for the heading substitute “Exempt water discharge activities: Wales”;
- (d) after paragraph 4 insert—

“Exempt water discharge activities: England

4A. For the purpose of the definition of “exempt water discharge activity”, the requirements are—

- (a) that the water discharge activity—
 - (i) falls within a description in Part 2 of Schedule 3; and
 - (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in Part 2 of that Schedule;
- (b) where the water discharge activity falls within a description in paragraph 1 (vegetation management activities) of Part 2 of Schedule 3, that (in addition to the requirements in sub-paragraph (a))—
 - (i) the activity is registered by the operator, and
 - (ii) subject to paragraph 9(10) of this Schedule, the operator is registered in relation to that activity; and
- (c) that the water discharge activity does not cause pollution of inland freshwaters, coastal waters or relevant territorial waters.”;
- (e) in paragraph 5 (exempt groundwater activities) for the heading substitute “Exempt groundwater activities: Wales”;
- (f) after paragraph 5 insert—

“Exempt groundwater activities: England

5A. For the purpose of the definition of “exempt groundwater activity”, the requirements are—

- (a) that the groundwater activity—
 - (i) falls within a description in Part 3 of Schedule 3; and
 - (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in Part 3 of that Schedule;
- (b) where the groundwater activity falls within a description in paragraphs 2 (discharge of small quantities of substances for scientific purposes) or 4 (open-loop ground source heating and cooling systems) of Part 3 of Schedule 3, that (in addition to the requirements in sub-paragraph (a))—
 - (i) the activity is registered by the operator; and
 - (ii) subject to paragraph 9(10) of this Schedule, the operator is registered in relation to the activity; and
- (c) that the groundwater activity does not cause pollution of groundwater.”;
- (g) in paragraph 9(10) (exclusion from the register of information affecting national security) for “or 5(b)” substitute “, 4A(b), 5(b) or 5A(b)”.

Schedule 3 Part 2 (exempt water discharge activities: descriptions and conditions)

10. In Part 2 of Schedule 3—

- (a) in paragraph 2 (small discharges of sewage effluent) for the heading substitute “Small discharges of sewage effluent: Wales”;
- (b) after paragraph 2 insert—

“Small discharges of sewage effluent: England

2A.—(1) For the purpose of paragraph 4A(a)(i) of Schedule 2, the description is 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) For the purpose of paragraph 4A(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are that an operator of the sewage treatment plant ensures that—

- (a) all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in guidance issued by the Agency in relation to—
 - (i) design and manufacturing standards,
 - (ii) construction, installation and operation specifications,
 - (iii) siting and installation, and
 - (iv) the capacity of the works and equipment;
- (b) in the case of a discharge which takes place for the first time on or after 1st January 2015, the discharge could not reasonably be made to the foul sewer;
- (c) the discharge does not contain trade effluent;
- (d) all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer’s specification;
- (e) all works and equipment used for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of polluting matter entering inland freshwaters or coastal waters;

- (f) before the land or part of the land on which the sewage treatment plant is situated or being used is sold, an owner of the land or part of the land gives to the purchaser a written notice—
 - (i) stating that an exempt water discharge activity is being carried on on the land; and
 - (ii) containing a description of the exempt facility.
- (3) For the purposes of this paragraph, an operator is a person who has control over the operation of the sewage treatment plant by reason of—
 - (a) being an owner of the land on which the sewage treatment plant is situated or being used; or
 - (b) having entered into a written agreement with the owner of the land on which the sewage treatment plant is situated or being used to be responsible for the maintenance of the sewage treatment plant.”.

Schedule 3 Part 3 (exempt groundwater activities: descriptions and conditions)

11. In Part 3 of Schedule 3—

- (a) in paragraph 3 for the heading substitute “Small discharges of sewage effluent: Wales”;
- (b) after paragraph 3 insert—

“Small discharges of sewage effluent: England

3A.—(1) For the purpose of paragraph 5A(a)(i) of Schedule 2, the description is a 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) For the purpose of paragraph 5A(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are that an operator of the septic tank or sewage treatment plant ensures that—

- (a) all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in guidance issued by the Agency in relation to—
 - (i) design and manufacturing standards,
 - (ii) construction, installation and operation specifications,
 - (iii) siting and installation of infiltration systems, and
 - (iv) the capacity of the works and equipment;
- (b) in the case of a discharge which takes place for the first time on or after 1st January 2015, the discharge could not reasonably be made to the foul sewer;
- (c) the discharge does not contain trade effluent;
- (d) the discharge does not result in an input of pollutants to groundwater—
 - (i) within 50 metres of a point at which water is abstracted for domestic or food production purposes from underground strata, or
 - (ii) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;
- (e) all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer’s specification;
- (f) all works and equipment for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering groundwater;

- (g) before the land or part of the land on which the septic tank or sewage treatment plant is situated or being used is sold, an owner of the land or part of the land gives to the purchaser a written notice—
 - (i) stating that an exempt groundwater activity is being carried on on the land; and
 - (ii) containing a description of the exempt facility.
- (3) For the purposes of this paragraph, an operator is a person who has control over the operation of the septic tank or sewage treatment plant by reason of—
 - (a) being an owner of the land on which the septic tank or sewage treatment plant is situated or being used; or
 - (b) having entered into a written agreement with the owner of the land on which the septic tank or sewage treatment plant is situated or being used to be responsible for the maintenance of the septic tank or sewage treatment plant.”.

Schedule 24 (public registers)

12. In paragraph 1 (matters to be included in a public register) of Schedule 24, in sub-paragraph (1)(k) for “regulator or exemption registration authority” substitute “regulator, the exemption registration authority or the exemption authority”.

23rd October 2014

Dan Rogerson
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675) (“the principal Regulations”) to remove the registration requirements for certain exempt facilities in England.

These Regulations make provision—

- (a) to remove the requirement to register small discharges of sewage effluent (which are discharges from a sewage treatment plant into surface water and discharges from a septic tank or sewage treatment plant into groundwater), in order to be exempt from the requirement for an environmental permit;
- (b) for exemption authorities to replace exemption registration authorities in carrying out certain functions in relation to small discharges of sewage effluent;
- (c) for revisions to the conditions that must be satisfied in order for small discharges of sewage effluent to be exempt from the need for a permit, including removing the requirements to keep records of maintenance and to notify the exemption registration authority if an exempt facility ceases to be in operation;
- (d) to clarify the position relating to the relevant person who is responsible for satisfying the conditions referred to in (c);
- (e) to clarify which provisions of the principal Regulations apply to England and which apply to Wales.

A partial impact assessment of the effect that this instrument will have on the costs to business, the voluntary sector and the public sector is available from the Better Regulations Programme, Department for Environment, Food and Rural Affairs, Nobel House, London SW1P 3RJ and at www.gov.uk/defra. It is also annexed to the Explanatory Memorandum which is alongside this instrument at www.legislation.co.uk.

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