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STATUTORY INSTRUMENTS

2015 No. 918

**ENVIRONMENTAL PROTECTION,
ENGLAND AND WALES**

**The Environmental Permitting (England
and Wales) (Amendment) Regulations 2015**

Made - - - - 20th March 2015

Coming into force in accordance with regulation 1(2)

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, have in accordance with section 2(4) of the Pollution Prevention and Control Act 1999⁽¹⁾ consulted—

- (a) the Environment Agency;
- (b) the Natural Resources Body for Wales;
- (c) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses as they consider appropriate; and
- (d) such other bodies or persons as they consider appropriate.

A draft of this instrument has been approved by a resolution of each House of Parliament and by the National Assembly for Wales pursuant to section 2(8) and (9)(d) of that Act.

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, make the following Regulations in exercise of section 2, and Schedule 1 to, that Act.

⁽¹⁾ 1999 c.24. There are amendments to Schedule 1, but none is relevant to these Regulations. Functions of the Secretary of State under or in relation to section 2, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales, by article 3 (subject to exceptions contained within that article that are not relevant to these Regulations) of the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958). Those functions were subsequently transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32). Section 2(4) was amended by the Natural Resources Body for Wales (Functions) Order 2013 (2013/755 W. 90), Schedule 2, Part 1, paragraphs 394, 395(1) and (3).

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PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Environmental Permitting (England and Wales) (Amendment) Regulations 2015.

(2) These Regulations come into force on the day after the day on which they are made.

(3) In these Regulations, “the principal Regulations” means the Environmental Permitting (England and Wales) Regulations 2010(2)

PART 2

Amendment of the principal Regulations

Amendment of regulation 3 (interpretation: directives)

2. In regulation 3 of the principal Regulations, after the definition of “the End-of-Life Vehicles Directive”, insert—

““the Energy Efficiency Directive” means Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency(3);”.

Amendment of regulation 35 (specific provisions applying to environmental permits)

^{F13} 3.

Textual Amendments
F1 Regulations revoked (except for regs. 1, 2) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of Part 2 of Schedule 1 (activities)

^{F14} 4.

Textual Amendments
F1 Regulations revoked (except for regs. 1, 2) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of Schedule 8 (Part B installations and Part B mobile plant)

^{F15} 5.

(2) [S.I. 2010/675](#); relevant amendments were made by [S.I. 2013/390](#), [2013/755 \(W.90\)](#).
(3) OJ No L 315, 14.11.2012, p1. The Pollution Prevention and Control (Designation of Energy Efficiency Directive) (England and Wales) Order 2015 ([S.I. 2015/816](#)) designated the Energy Efficiency Directive for the purposes of paragraph 20(2) of Schedule 1 to the Pollution Prevention and Control Act 1999.

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Textual Amendments

F1 Regulations revoked (except for regs. 1, 2) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Insertion of Schedule 8A (efficiency in heating and cooling: energy efficiency directive)

F1 6.

Textual Amendments

F1 Regulations revoked (except for regs. 1, 2) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

F1 PART 3

Transitional provisions

Interpretation of Part 3

7.

Aggregation of rated thermal input – existing installations

8.

Existing applications for the grant or variation of an environmental permit

9.

Dan Rogerson
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs
Carl Sargeant
Minister for Natural Resources
One of the Welsh Ministers

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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 transpose Article 14(5) to (9) of Directive 2012/27/EU on energy efficiency (OJ No L 315, 14.11.2012, p 1). Article 14(5) to (9) of the Directive require Member States to ensure that a cost-benefit analysis is carried out to assess the installation of cogeneration or the utilisation of waste heat from energy producing installations, with the aim to increase energy efficiency.

Regulation 4 amends Part 2 of Schedule 1 to the principal Regulations to provide for the aggregation of the net rated thermal input of appliances operated by the same operator on the same site. Where the aggregated net rated thermal input exceeds 20 megawatts, this means they are brought within the scope of the definition of ‘Part B installations’ for the purposes of applying the cost-benefit analysis requirements introduced by the new Schedule 8A.

Regulation 6 inserts new Schedule 8A, which provides for a cost benefit analysis to be included in applications for environmental permits and for the variation of environmental permits for specified installations.

The cost-benefit analysis must assess the cost and benefits of installations producing electricity, operating as cogeneration installations. In the case of other installations, the cost-benefit analysis must assess the cost and benefits of utilising waste heat for the purposes of district and cooling networks.

Regulations 8 and 9 contain transitional provisions. Regulation 8 provides that a Part B installation that is a regulated facility under the principal Regulations due to the application of the aggregation provisions in Regulation 4, and is in operation before the coming into force of these regulations, is to be deemed an exempt facility until it is substantially refurbished.

Regulation 9 provides that Schedule 8A does not apply to applications for an environmental permit or for a variation of an environmental permit received by the regulator prior to the coming into force of these regulations.

A full Impact Assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Better Regulation Programme, Department for Environment, Food and Rural Affairs, 17 Smith Square, London SW1P 3JR and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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