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## STATUTORY INSTRUMENTS

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# 2016 No. 1154

## The Environmental Permitting (England and Wales) Regulations 2016

### PART 2

#### Environmental permits

#### 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,
- (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 EU Treaties, or
  - (ii) a direction given by the appropriate authority under regulation 62, or
- (c) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in consequence of a transfer or partial transfer of an environmental permit under regulation 21.

(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).

**Status:** Point in time view as at 30/01/2018.

**Changes to legislation:** The Environmental Permitting (England and Wales) Regulations 2016, CHAPTER 3 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(7) With respect to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone flood risk activity, the regulator must not, without the agreement of the operator, of its own initiative vary any condition of the permit that relates to the flood risk activity unless—

- (a) in the opinion of the regulator, the circumstances in which the activity is or is to be carried on have changed such that any of the objectives in paragraph 5 of Part 1 of Schedule 25 would no longer be met, and
- (b) in the case of a variation that relates to an activity that involves any construction or works, the variation relates to aspects of the construction or works which have not yet been completed.

(8) Paragraph (7) does not apply if the regulator, of its own initiative, varies an environmental permit, or any condition of a permit, in order to comply with—

- (a) an obligation of the United Kingdom under the EU Treaties, or
- (b) a direction given by the appropriate authority under regulation 62.

### **Transfer of an environmental permit**

**21.**—(1) The regulator may transfer to a proposed transferee an environmental permit or any part of an environmental permit—

- (a) if the operator is one individual (A) and the regulator is satisfied that A cannot be found, on the application of the proposed transferee only,
- (b) if the operator is two or more individuals (A and B) and the regulator is satisfied that A cannot be found, on the joint application of B and the proposed transferee, or
- (c) otherwise, on the joint application of the operator and the proposed transferee.

(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, stand-alone groundwater activity or a stand-alone flood risk activity.

(4) The regulator may transfer to a proposed transferee an environmental permit to which paragraph (1) does not apply, or any part of that permit—

- (a) if the operator is one individual (A) and the regulator is satisfied that A cannot be found, on the notification of the proposed transferee only,
- (b) unless sub-paragraph (c) applies, if the operator is two or more individuals (A and B) and the regulator is satisfied that A cannot be found, on the joint notification of B and the proposed transferee,
- (c) if the operator is two or more individuals (A and B) and the proposed transferee is two or more individuals (B and C), where B is both an operator and a proposed transferee—
  - (i) on the joint notification of A and C, or
  - (ii) if the regulator is satisfied that A cannot be found, on the notification of C only, or
- (d) otherwise, on the joint notification of the operator and the proposed transferee.

(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) In the case of a partial transfer following a notification, the regulator must grant a new environmental permit to the transferee subject to the same conditions as the original permit, varied in consequence of the partial transfer.
- (8) If—
- (a) an enforcement notice or a suspension 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 or, as the case may be, the suspension notice is also transferred to the other person to the extent that it relates to the permit or part transferred.
- (9) Unless a proposed transferee makes a joint application or gives a joint notification, the regulator may not transfer to the proposed transferee an environmental permit or any part of an environmental permit in respect of a regulated facility that ceased to be in operation more than 6 months before the proposed date of transfer.

#### **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 an environmental 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,
  - (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 to 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) Where an environmental permit authorises in whole or in part an operation which becomes an exempt operation, that part of the permit which authorises the exempt operation is revoked on the date that the operation is registered as an exempt operation.
- (9) In paragraph (8), “operation” means a waste operation, stand-alone water discharge activity or stand-alone groundwater activity.

*Status: Point in time view as at 30/01/2018.*

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### **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
- (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 solvent emission activity;
- (d) a stand-alone water discharge activity or stand-alone groundwater activity;
- (e) a stand-alone flood risk activity, except where the environmental permit has been granted subject to a condition that is to operate beyond the time when the activity is complete.
- [<sup>F1</sup>(f) a medium combustion plant;
- (g) a specified generator]

(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—
  - (i) in all cases, must not be less than 20 working days after the date on which the notification is given, and
  - (ii) in the case of a stand-alone flood risk activity where the regulator has specified in the environmental permit a date by which the activity must be completed, must not be earlier than the day after that date.
- (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.

#### **Textual Amendments**

- F1** [Reg. 24\(1\)\(f\)\(g\)](#) inserted (30.1.2018) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2018 \(S.I. 2018/110\)](#), regs. 1, **9**

#### **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.

**Status:**

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