
STATUTORY INSTRUMENTS

2017 No. 1200

The Control of Mercury (Enforcement) Regulations 2017

PART 1

Introductory

Citation and application

1.—(1) These Regulations may be cited as the Control of Mercury (Enforcement) Regulations 2017.

(2) These Regulations apply to the regulation of activities relating to mercury in the United Kingdom including—

- (a) in the territorial sea (see regulation 3), and
- (b) in respect of offshore installations in the offshore area (see paragraphs 1 and 2 of Schedule 2).

Commencement

2.—(1) These Regulations (except Parts 2 and 3) come into force on 1st January 2018.

(2) Parts 2 and 3 (which are about civil enforcement except in Scotland and the Scottish offshore area) come into force on 1st April 2018.

Interpretation

3. In these Regulations—

“the Mercury Regulation” means Regulation EU 2017/852 of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008(1);

“the EA 1995” means the Environment Act 1995(2);

“the EO 2002” means the Environment (Northern Ireland) Order 2002(3);

“the TSWR 2007” means the Transfrontier Shipment of Waste Regulations 2007(4);

“the WCLO 1997” means the Waste and Contaminated Land (Northern Ireland) Order 1997(5);

(1) OJ No L 137, 24.5.2017, p1.

(2) 1995 c.25. Relevant amending enactments are as follows. For section 41, S.I. 2017/1200. For section 108, section 55 of the Anti-social Behaviour Act 2003 (c.38), section 53 of the Clean Neighbourhoods and Environment Act 2005 (c.16), paragraph 3 of Schedule 2 to the Protection of Freedoms Act 2012 (c.9) and section 46 of the Regulatory Reform (Scotland) Act 2014 (asp 3) (“the RRSa 2014”) and S.I. 2013/755 and 2016/475. For section 110, paragraph 29 of Schedule 3 to the RRSa 2014. For Schedule 18, section 46 of the RRSa 2014.

(3) S.I. 2002/3153 (N.I. 7), amended by S.I. 2011/2911 and 2017/1200. There are other amending instruments but none is relevant.

(4) S.I. 2007/1711, amended by S.I. 2014/861. There are other amending instruments but none is relevant.

(5) S.I. 1997/2778 (N.I. 19). Relevant amending enactments are as follows. For Article 72, section 5 of, and paragraph 2 of Schedule 1 and paragraph 1 of Schedule 2 to, the Waste and Contaminated Land (Amendment) Act (Northern Ireland) 2011 (c. 5) (“the WCLA 2011”) and S.I. 2007/611 (N.I. 3). For Article 74, S.I. 2007/611. For Schedule 4, paragraph 1 of Schedule 2 to the WCLA 2011.

“the Agency” means the Environment Agency;

“civil penalty” is to be read in accordance with regulation 10(2) and (5);

“civil penalty notice” is to be read in accordance with regulation 10(2);

“DAERA” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;

“enforcement notice” is to be read in accordance with the following—

(a) regulation 8(2), in the case of an enforcement notice given by the Agency or NRW;

(b) regulation 20(2), in the case of an enforcement notice given by DAERA;

(c) regulation 26(2), in the case of an enforcement notice given by SEPA;

“England” includes the territorial sea which does not form part of Northern Ireland, Scotland or Wales;

“information notice” is to be read in accordance with regulation 35(2);

“Northern Ireland” includes the Northern Irish area within the meaning given by regulation 4(1) of the TSWR 2007 (which describes an area of territorial sea adjacent to Northern Ireland);

“NRW” means the Natural Resources Body for Wales;

“relevant provision” means a provision listed in Schedule 1;

“Scotland” includes the area of territorial sea falling within the Scottish area within the meaning given by regulation 4(1) of the TSWR 2007 (which describes an area of sea adjacent to Scotland);

“SEPA” means the Scottish Environment Protection Agency;

“territorial sea” means the territorial sea adjacent to the United Kingdom(6);

“Wales” includes the Welsh area within the meaning given by regulation 4(1) of the TSWR 2007 (which describes an area of territorial sea adjacent to Wales).

Definitions relating to offshore installations

4. In these Regulations, “offshore installation”, “offshore area”, “English offshore area” and “Scottish offshore area” have the meanings given by Schedule 2.

“Enforcing authority”

5. In these Regulations, “enforcing authority” means—

(a) the Agency, for England and offshore installations in the English offshore area;

(b) DAERA, for Northern Ireland;

(c) SEPA, for Scotland and offshore installations in the Scottish offshore area;

(d) NRW, for Wales.

Designation of competent authority

6. The enforcing authority is designated as the competent authority in accordance with Article 17 of the Mercury Regulation (which requires the designation of authorities responsible for performing certain functions under that Regulation).

(6) Section 1(5) of the Territorial Sea Act 1987 (c.49) has the effect that the reference to the territorial sea adjacent to the United Kingdom must be construed in accordance with that section and with any provision made, or having effect as if made, under that section. S.I. 1989/482 and 2014/1353 are relevant instruments made under that section.

