
STATUTORY INSTRUMENTS

2007 No. 3538

**The Environmental Permitting
(England and Wales) Regulations 2007**

PART 7

Miscellaneous and transitional provision, savings,
consequential amendments, revocations and repeals

Interpretation of this Part

67. In this Part—

- “at the relevant time” means immediately before the coming into force of these Regulations;
“disposal licence” means a disposal licence issued under section 5 of the Control of Pollution Act 1974⁽¹⁾;
“PPC permit” means a permit granted under regulation 10 of the 2000 Regulations⁽²⁾;
“transitional application” means an application mentioned in regulation 70(1)(c) or (d) or to which regulation 71 applies; and
“waste management licence” means a licence granted under section 35 of the 1990 Act⁽³⁾.

Further provision in relation to waste

68.—(1) Section 33(1)(a) of the 1990 Act does not apply to an operation falling within a description in Part 2 of Schedule 3.

(2) But, paragraph (1) does not apply—

- (a) to the extent that the operation involves hazardous waste, or the storage or treatment of WEEE, unless otherwise indicated in that Part;
- (b) in relation to an operation falling within a description in paragraph 50, 51 or 52 of Schedule 3 unless the operation is carried on—
- (i) by or with the consent of the occupier of the land where it is carried on, or
- (ii) by a person who is otherwise entitled to do so on that land.

(3) Schedule 20 (further provision in relation to waste) has effect.

Transitional provision: general

69.—(1) Except where it is the subject of a transitional application, a disposal licence, PPC permit or waste management licence which was in force at the relevant time becomes an environmental

(1) 1974 c. 40. Section 5 was repealed by section 162 and Schedule 16 of the Environmental Protection Act 1990 (c. 43), subject to the transitional and saving provision in section 77 of that Act.

(2) Regulation 10 was amended by S.I.2002/1559, 2004/107.

(3) Section 35 was amended by the Environment Act 1995 (c. 25) and by S.I. 2000/1973.

permit on the coming into force of these Regulations and must be treated as if it was granted under regulation 13(1).

(2) The holder of a waste management licence which becomes an environmental permit under these Regulations must be treated as the operator under that permit for the purposes of these Regulations.

(3) An establishment or undertaking which at the relevant time was registered in relation to an exempt activity under regulation 18 of the 1994 Regulations⁽⁴⁾ is deemed to be registered in relation to an exempt waste operation under Schedule 2 on the coming into force of these Regulations.

(4) The information on any register at the relevant time which was required to be kept by—

- (a) section 20(1) or 64(1) of the 1990 Act⁽⁵⁾; or
- (b) regulation 29(1) of the 2000 Regulations,

is deemed to become information kept on a public register under these Regulations on their coming into force, to the extent that such keeping is required.

(5) Paragraph (6) applies where—

- (a) a PPC permit authorising the operation of an installation becomes an environmental permit by virtue of these Regulations; and
- (b) the environmental permit does not contain a condition giving effect to Article 12(1) of the IPPC Directive.

(6) If this paragraph applies, the environmental permit must be read as if it contained the following condition—

“If the operator proposes to make a change in operation of the installation, he must, at least 14 days before making the change, notify the regulator in writing. The notification must contain a description of the proposed change in operation. It is not necessary to make such a notification if an application to vary this permit has been made and the application contains a description of the proposed change. In this condition “change in operation” means a change in the nature or functioning, or an extension, of the installation, which may have consequences for the environment.”.

Transitional provision: conversion of permits and licences subject to certain applications

70.—(1) Each of the following becomes an environmental permit on the determination date and must be treated as if it was granted under regulation 13(1)—

- (a) a PPC permit which was the subject of an application for grant, outstanding at the relevant time, except an application to which regulation 71 applies;
- (b) a waste management licence which was the subject of an application for grant, outstanding at the relevant time;
- (c) a PPC permit which was the subject of an application, outstanding at the relevant time, for variation, transfer or surrender under, respectively, regulation 17, 18 or 19 of the 2000 Regulations;
- (d) a waste management licence which was the subject of an application, outstanding at the relevant time, for modification, surrender or transfer under, respectively, section 37, 39 or 40 of the 1990 Act.

(2) In this regulation, “determination date” means—

- (a) if an application is refused and the applicant appeals against that refusal, the date the appeal is determined or withdrawn;

⁽⁴⁾ Regulation 18 was amended by S.I. 1995/288, 1996/593, 1998/606, 2000/1973, 2003/2635, 2005/1728, 2006/937, 2006/3315.

⁽⁵⁾ Section 64(1) was amended by the Environment Act 1995, section 120 and Schedule 24.

- (b) if an application is granted and the applicant appeals against the imposition of conditions, the date the appeal is determined or withdrawn;
- (c) in any other case, the day following the last day on which an appeal against—
 - (i) the refusal of an application, or
 - (ii) the imposition of conditions pursuant to an application,could be made, determined in accordance with the applicable provisions of the 1990 Act or the 2000 Regulations, as the case may be.

Transitional provision: conversion of PPC permits resulting from applications in relation to existing Part A installations and mobile plant

71.—(1) This regulation applies to an application for the grant of a PPC permit which falls within paragraph (2).

- (2) An application falls within this paragraph if—
 - (a) it was outstanding at the relevant time; and
 - (b) the operation to which the application relates is carried on at an installation or by means of mobile plant which was at the time of the application an existing Part A installation or mobile plant.

(3) A PPC permit granted on the determination of an application to which this regulation applies becomes an environmental permit on the determination date and must be treated as if it was granted under regulation 13(1).

(4) In this regulation, “existing” and “determination date” have the meanings given at the relevant time by paragraph 6 of Schedule 3 to the 2000 Regulations.

Savings

72.—(1) Notwithstanding their repeal or revocation by these Regulations, the provisions of the 1990 Act, the 2000 Regulations and the 1994 Regulations continue to have effect for the purposes of—

- (a) determining an application for the grant of a PPC permit or waste management licence which was outstanding at the relevant time;
- (b) giving effect to a notice served before the coming into force of these Regulations;
- (c) determining an appeal brought before the coming into force of these Regulations; and
- (d) bringing and determining an appeal, after the coming into force of these Regulations, in respect of—
 - (i) the determination of an application referred to in sub-paragraph (a), or
 - (ii) a notice served before the coming into force of these Regulations.

(2) The enactments repealed, revoked and amended by these Regulations continue to have effect until the determination date as if they had not been repealed, revoked or amended, for any purpose in connection with—

- (a) a transitional application; and
- (b) an operation to which such an application relates,

and these Regulations, other than this paragraph, do not apply for such a purpose until that date.

(3) Notwithstanding their repeal by these Regulations, the provisions of the 1990 Act continue to have effect for the purposes of paragraph 20 of Schedule 1 to the Pollution Prevention and Control Act 1999.

(4) Notwithstanding its revocation by these Regulations, paragraph 7 of Schedule 4 to the 1994 Regulations continues to have effect in relation to sections 12(3A), 31(3) and 36(3) of the Town and Country Planning Act 1990⁽⁶⁾ to the extent that those provisions are saved by—

- (a) in England, article 4 of, and Schedule 2 to, the Planning and Compulsory Purchase Act 2004 (Commencement No. 2, Transitional Provisions and Savings) Order 2004⁽⁷⁾;
- (b) in Wales, article 3 of, and Schedule 2 to, the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005⁽⁸⁾.

(5) Notwithstanding its revocation by these Regulations, regulation 3 of the 1994 Regulations continues to have effect for the purposes of Schedule 5 to those Regulations.

(6) Notwithstanding the revocation of regulation 12(10) of the 2000 Regulations by these Regulations, any condition implied in a permit by that regulation continues to have effect when the permit becomes an environmental permit.

(7) Notwithstanding the revocation of regulation 44 of the End-of-Life Vehicles Regulations 2003⁽⁹⁾ by these Regulations, any modification to a waste management licence made by that regulation continues to have effect when the licence becomes an environmental permit.

(8) Notwithstanding the revocation of regulation 5(1) of the Pet Cemeteries (England and Wales) Regulations 2007 by these Regulations, that regulation continues to have effect when a waste management licence to which it applies becomes an environmental permit.

(9) Notwithstanding their revocation by these Regulations, the amendments to enactments and other instruments made by the 1994 Regulations and the 2000 Regulations continue to have effect.

(10) In this regulation, “determination date”, in relation to a transitional application, has the meaning given in regulation 70(2) or 71(4), as the case may be.

Consequential amendments

73. Schedule 21 (consequential amendments) has effect.

Revocations and repeals

74.—(1) The instruments specified in Schedule 22 (revocations) are revoked to the extent specified.

(2) The enactments specified in Schedule 23 (repeals) are repealed to the extent specified.

⁽⁶⁾ 1990, c. 8. Section 12(3A) was inserted by the Planning and Compensation Act 1991 (c. 34), section 27 and Schedule 4.

⁽⁷⁾ S.I. 2004/2202. Article 4 was amended by S.I. 2005/2085.

⁽⁸⁾ S.I. 2005/2847 (W. 118).

⁽⁹⁾ S.I. 2003/2635, to which there are amendments not relevant to these Regulations.