

**2013 No. 390**

**ENVIRONMENTAL PROTECTION, ENGLAND AND  
WALES**

**The Environmental Permitting  
(England and Wales) (Amendment)  
Regulations 2013**

*Made* - - - - - *20th February 2013*

*Coming into force in accordance with regulation 2(1) to (4)*



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These Regulations are made in exercise of the powers conferred by sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(a).

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(a) 1999 c. 24. Paragraph 25 of Schedule 1 was amended by section 105(1)(a) and (b) of the Clean Neighbourhoods and Environment Act 2005 (c. 16). There are other amendments to Schedule 1, none of which is relevant to these Regulations. Functions of the Secretary of State under section 2 (except in relation to offshore oil and gas exploration and exploitation), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 3 of S.I.

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 consulted<sup>(a)</sup>—

- (a) the Environment Agency;
- (b) 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
- (c) 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)<sup>(b)</sup> of that Act.

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, make the following Regulations.

## PART 1

### General

#### Citation

1. These Regulations may be cited as the Environmental Permitting (England and Wales) (Amendment) Regulations 2013.

#### Commencement

2.—(1) Save as provided in paragraphs (2), (3) and (4), these Regulations come into force on the seventh day after the day on which they are made.

(2) Regulation 58(2) comes into force on 7th January 2014.

(3) Regulation 58(3) comes into force on 1st January 2016.

(4) Regulation 4(6), (8), (12) and (15) and regulation 5 come into force in relation to existing installations on 7th January 2014.

(5) In these Regulations—

- (a) “existing installation” means an installation where a Part A activity is carried on—
  - (i) which is in operation on or before 7th January 2013, or
  - (ii) in respect of which a duly made application for an environmental permit is submitted before 7th January 2013 and which commences operation on or before 7th January 2014,  
provided that an environmental permit has been granted in respect of such operation;
- (b) “environmental permit” and “installation” have the same definition as in the principal Regulations;
- (c) “Part A activity” has the same definition as in the principal Regulations and does not include operating small waste incineration plants.

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2005/1958. Those functions were then transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

- (a) The requirement in that section to consult the bodies and persons mentioned was transferred from the National Assembly for Wales to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
- (b) The reference in section 2(8) to each House of Parliament has effect in relation to the exercise of functions by the Welsh Ministers as if it included a reference to the National Assembly for Wales, by virtue of section 162 of, and paragraph 33 of Schedule 11 to, the Government of Wales Act 2006.

## Interpretation

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

## PART 2

### Amendments of the principal Regulations

#### Regulation 2 (interpretation: general)

4.—(1) Regulation 2(1) of the principal Regulations is amended in accordance with paragraphs (2) to (14).

(2) Omit the definition of “directly associated activity”.

(3) In the definition of “emission”—

(a) for paragraph (c) substitute—

“(c) in relation to a solvent emission activity, the direct or indirect release of substances from individual or diffuse sources in the regulated facility into the air;”;

(b) omit “and” immediately preceding paragraph (g) and at the end insert—

“,

(h) in relation to a small waste incineration plant, the direct or indirect release of substances from individual or diffuse sources in the regulated facility to air or water;”.

(4) In the definition of “excluded waste operation”(b) omit “Part A mobile plant or”.

(5) After the definition of “exemption registration authority”, insert—

““existing installation” means an installation carrying on a Part A activity—

(a) which is in operation on or before 7th January 2013, or

(b) in respect of which a duly made application for an environmental permit is submitted before 7th January 2013 and which commences operation on or before 7th January 2014,

provided that an environmental permit has been granted in respect of such operation;”.

(6) In the definition of “hazardous waste” for “except in Section 5.1 of Part 2 of Schedule 1” substitute “subject to paragraph (6)”.

(7) In the definition of “mobile plant” omit paragraph (a).

(8) In the definition of “non-hazardous waste” for “except in Section 5.1 of Part 2 of Schedule 1” substitute “subject to paragraph (6)”.

(9) For the definition of “Part A mobile plant”, “Part A(1) mobile plant”, “Part A(2) mobile plant” and “Part B mobile plant” substitute—

““Part B mobile plant” has the meaning given in paragraph 1 of Part 1 of Schedule 1;”.

(10) Omit the definitions of “SED activity” and “SED installation”.

(11) After the definition of “sewer” insert—

““small waste incineration plant” means a waste incineration plant or waste co-incineration plant with a capacity less than or equal to 10 tonnes per day for hazardous waste or 3 tonnes per hour for non-hazardous waste;

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(a) S.I. 2010/675 as amended by S.I. 2010/2933; 2011/988, 2043 and 881 in England and S.I. 2011/2377 in Wales and S.I. 2012/630.

(b) As amended by S.I. 2011/811.

“solvent emission activity” means an activity to which Chapter V of the Industrial Emissions Directive applies;”.

(12) For the definition of “waste”(a) substitute—

““waste”, subject to paragraph (5) where it applies, and except where otherwise defined—

(a) in relation to Chapter 5 of Part 2 of Schedule 1, Schedule 13 or 13A, Schedule 14, Schedule 15 or 15A, or Schedule 17 or 17A, means anything that—

(i) is waste within the meaning of Article 3(1) of the Waste Framework Directive; and

(ii) is not excluded from the scope of that Directive by Article 2(1)(d) of that Directive;

(b) in any other case means anything that—

(i) is waste within the meaning of Article 3(1) of the Waste Framework Directive; and

(ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”.

(13) After the definition of “waste battery or accumulator” insert—

““waste co-incineration plant” means a stationary or mobile technical unit whose main purpose is the generation of energy or production of material products and which uses waste as a regular or additional fuel or in which waste is thermally treated for the purpose of disposal through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

“waste incineration plant” means a stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;”.

(14) In the definition of “waste mobile plant”, in paragraph (c) omit “, Part A mobile plant”.

(15) After paragraph (5) of regulation 2 insert—

“(6) In relation to an activity that falls within Chapter 5 of Part 2 of Schedule 1 or Schedule 13 or 13A, hazardous waste means waste which displays any of the characteristics listed in Annex III to the Waste Framework Directive.”.

### **Regulation 3 (interpretation: Directives)**

5. In regulation 3 of the principal Regulations—

(a) for the definition of “the IPPC Directive” substitute—

““the Industrial Emissions Directive” means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast)(b);”;

(b) omit the definition of “the Waste Incineration Directive”.

### **Regulation 5 (interpretation: exempt facilities)**

6. In regulation 5(1) of the principal Regulations, in the definition of “exempt waste operation”, for paragraph (a) substitute—

“(a) that is not carried on at an installation, and”.

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(a) As amended by S.I. 2011/988.

(b) OJ No L 334, 17.12.2010, p 17 as amended by corrigendum OJ No L 158, 19.6.2012, p 25.

**Regulation 6 (interpretation: local authority)**

7. In regulation 6(2) of the principal Regulations, after “Part B installation” insert “, a small waste incineration plant or a solvent emission activity”.

**Regulation 7 (interpretation: operate a regulated facility and operator)**

8. In regulation 7 of the principal Regulations, in the definition of “operate a regulated facility”, for “or groundwater activity” substitute “, groundwater activity, small waste incineration plant operation or solvent emission activity”.

**Regulation 8 (interpretation: regulated facility and class of regulated facility)**

9.—(1) At the end of regulation 8(1) of the principal Regulations, insert—

“;

- (h) a small waste incineration plant;
- (i) a solvent emission activity”.

(2) At the end of regulation 8(4) of the principal Regulations, insert—

“;

- (e) small waste incineration plant;
- (f) solvent emission activity”.

**Regulation 12 (requirement for an environmental permit)**

10. In regulation 12 of the principal Regulations, after paragraph (5)(a) insert—

“(6) Paragraph (1)(a) does not apply until 7th July 2015 in relation to the Part A activities to which paragraph (7) applies, provided that—

- (a) the installation at which the activity is carried on is in operation before 7th January 2013, and
- (b) the activity is not a Part A activity before that date.

(7) The Part A activities to which this paragraph applies are those falling within—

- (a) paragraph (d) of Section 1.2 (in relation to the gasification or liquefaction of fuels other than coal);
- (b) Chapter 4 (in relation to the biological processing of chemicals);
- (c) Section 5.3 (in relation to the recovery of hazardous waste in an installation with a capacity over 10 tonnes per day by biological or physico-chemical treatment, blending, mixing or repackaging, or surface impoundment);
- (d) paragraph (a) of Section 5.4 (in relation to the disposal of non-hazardous waste by biological or physico-chemical treatment, pre-treatment for incineration or co-incineration, treatment of slags and ashes or treatment in shredders of metal waste);
- (e) paragraph (b) of Section 5.4 (in relation to the recovery or a mix of recovery and disposal of non-hazardous waste by biological treatment, pre-treatment for incineration or co-incineration, treatment of slags and ashes or treatment in shredders of metal waste);
- (f) Section 5.6 (temporary or underground storage of hazardous waste);
- (g) Section 5.7 (independently operated treatment of waste water);
- (h) Section 6.6 (preservation of wood and wood based products with chemicals);

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(a) Substituted by S.I. 2011/2043.

- (i) paragraph (d) of Section 6.8 (treatment and processing of animal and vegetable raw materials for food and feed).”.

**Regulation 17 (single site permits)**

11. In regulation 17(2)(b) of the principal Regulations, omit “(other than a standard facility to which the IPPC Directive applies)”.

**Regulation 18 (consolidation of an environmental permit)**

12. In regulation 18(1)(b) of the principal Regulations, omit “, not being a standard facility to which the IPPC Directive applies”.

**Regulation 32 (discharge of functions)**

13.—(1) In regulation 32(2) of the principal Regulations—

(a) in sub-paragraph (a) omit “or Part A(2) mobile plant”;

(b) at the end insert—

“;

(c) a small waste incineration plant;

(d) a solvent emission activity”.

(2) In regulation 32(3) and (4) omit “Part A(2) mobile plant or”.

**Regulation 35 (specific provisions applying to environmental permits)**

14. In regulation 35(2) of the principal Regulations—

(a) in sub-paragraph (a) for “and Part A mobile plant” substitute “and Schedule 7A (Part A installations: Industrial Emissions Directive)”;

(b) in sub-paragraph (b) after “mobile plant” insert “etc.”;

(c) in sub-paragraph (g) after “(waste incineration)” insert “and Schedule 13A (waste incineration: industrial emissions directive)”;

(d) in sub-paragraph (h) for “SED installations” substitute “solvent emission activities”;

(e) in sub-paragraph (i), after “(large combustion plants)” insert “and Schedule 15A (large combustion plants: industrial emissions directive)”;

(f) in sub-paragraph (k), after “(titanium dioxide)” insert “and Schedule 17A (titanium dioxide: industrial emissions directive)”.

**Regulation 36 (enforcement notices)**

15. In regulation 36 of the principal Regulations—

(a) in paragraph (1) omit “(an “enforcement notice”)” and “under this regulation”;

(b) in paragraph (2) for “An enforcement notice” substitute “The notice”;

(c) in paragraph (3) for “an enforcement notice” substitute “the notice”;

(d) for paragraph (4) substitute—

“(4) In the case of a regulated facility to which Schedule 7A, 13A or 14 applies, if the regulator considers that an incident or accident significantly affecting the environment has occurred as the result of the operation of that regulated facility, the regulator may serve a notice on the operator of that facility.

(5) A notice served under paragraph (4) must—

(a) specify the measures necessary to limit the environmental consequences of the incident or accident, and

- (b) specify the measures necessary to prevent further incidents or accidents.
- (6) The regulator may withdraw the notice at any time by further notice served on the operator.”.

#### **Regulation 40 (defences)**

16. In regulation 40 of the principal Regulations, after paragraph (3) insert—

“(4) Subject to paragraph (5), it is a defence for a person charged with an offence under regulation 38(1) in relation to an activity listed in regulation 12(7), to prove that a duly-made application for a permit was submitted to the regulator by—

- (a) 30th September 2014 where the activity is listed in sub-paragraph (a), (b) or (e) of regulation 12(7);
  - (b) 31st December 2014 where the activity is listed in sub-paragraph (c),(d) or (h) of regulation 12(7);
  - (c) 31st March 2015 where the activity is listed in sub-paragraph (f), (g) or (i) of regulation 12(7).
- (5) Where a permit has been refused, paragraph (4) does not apply—
- (a) if the applicant appeals against the refusal, after the date the appeal is determined or withdrawn, or
  - (b) if the applicant does not appeal, after the day after the last day on which an appeal could have been brought under these Regulations.”.

#### **Regulation 58 (Environment Agency: notices in relation to emissions to water)**

17. In regulation 58(1) of the principal Regulations, omit “and Part A mobile plant”.

#### **Regulation 63 (directions to the Agency: installations outside the United Kingdom)**

18.—(1) In regulation 63(1) of the principal Regulations for “Article 18(1) of the IPPC Directive” substitute “Article 26(1) of the Industrial Emissions Directive”.

(2) In regulation 63(2) of the principal Regulations, for “Article 18(2) of the IPPC Directive” substitute “Article 26(2) of the Industrial Emissions Directive”.

#### **Part 1 of Schedule 1 (activities, installations and mobile plant—interpretation and application: general)**

19.—(1) Part 1 of Schedule 1 to the principal Regulations is amended as follows.

(2) In paragraph 1 (interpretation)—

- (a) in the definition of “directly associated activity”, omit “, in relation to an activity other than a SED activity,”;
- (b) in the definition of “installation”, omit “(except where used in the definition of “excluded plant” in Section 5.1 of Part 2 of this Schedule)”;
- (c) for the definition of “Part A(1) installation” substitute—

““Part A(1) installation” means an installation where a Part A(1) activity is carried on either alone or in combination with any or all of the following—

  - (a) an A(2) activity;
  - (b) a Part B activity;
  - (c) the operation of a small waste incineration plant;
  - (d) a solvent emission activity;”;
- (d) for the definition of “Part A(2) installation” substitute—

““Part A(2) installation” means an installation where a Part A(2) activity is carried on either alone or in combination with any or all of the following—

- (a) a Part B activity;
  - (b) the operation of a small waste incineration plant;
  - (c) a solvent emission activity;”;
  - (e) omit the definitions of “Part A mobile plant”, “Part A(1) mobile plant” and “Part A(2) mobile plant”;
  - (f) in the definition of “Part B installation”, after “is carried on” insert—
    - “either alone or in combination with either or both of the following—
    - (a) the operation of a small waste incineration plant;
    - (b) a solvent emission activity”;
  - (g) in the definition of “Part B mobile plant” omit “, not being Part A mobile plant,”.
- (3) In paragraph 2(2) and (3) (activities falling within more than one Part description) omit “(other than a description in Section 7)”.
- (4) In paragraph 3 (application of activities falling within Sections 1.1 to 6.9 of Part 2)—
- (a) in the heading and first line of the paragraph, omit “Sections 1.1 to 6.9 of”;
  - (b) for sub-paragraph (c) substitute—
    - “(c) carried on at an installation, other than a waste incineration plant or a waste co-incineration plant, or by means of Part B mobile plant, where the installation or plant is used solely for research, development and testing of new products or processes;”;
  - (c) omit “or” immediately preceding sub-paragraph (f) and at the end insert—
    - “; or
  - (g) carried on at a waste incineration plant or a waste co-incineration plant used for research, development and testing in order to improve the incineration process and which treats less than 50 tonnes of waste per year”.
- (5) For paragraph 4 substitute—

#### **“Application of thresholds in Part 2**

**4.** For the purposes of assessing whether an activity is above any of the thresholds given in Part 2 of this Schedule, where several activities falling under the same description of activity containing a threshold are operated in the same installation, the capacities of those activities must be added together.”.

- (6) In paragraph 6 (application of Part B activities: releases into the air) omit sub-paragraph (2)(a).

#### **Part 2 of Schedule 1 (activities)**

**20.** Part 2 of Schedule 1 to the principal Regulations is amended in accordance with regulations 21 to 45.

#### **Combustion activities**

**21.** In Section 1.1 (combustion activities)—

- (a) in Part A(1) omit paragraph (b);
- (b) in *interpretation and application of Part A(1)*, omit paragraph 5;
- (c) in paragraph (a) of Part B, omit “(other than a fuel mentioned in Part A(1)(b))”.

## **Gasification, liquefaction and refining activities**

- 22.**—(1) In Section 1.2 (gasification, liquefaction and refining activities), in Part A(1)—
- (a) omit paragraph (b);
  - (b) for paragraph (d) substitute—
    - “(d) Gasification or liquefaction of coal or other fuels in installations with a total rated thermal input of 20 megawatts or more.”;
  - (c) omit paragraphs (e) and (f);
  - (d) in paragraph (h), omit sub-paragraphs (iii) to (v);
  - (e) omit paragraph (i);
  - (f) omit paragraph (k);
  - (g) in *interpretation and application*—
    - (i) in paragraph 1(b), after “incineration” insert “in a waste incineration plant or waste co-incineration plant”;
    - (ii) in paragraph 1(d) for “none of which is waste; or” substitute “whether or not containing or comprising waste.”;
    - (iii) omit paragraph 1(e)(a).
- (2) In Section 1.2, in Part B—
- (a) in paragraph (d), after “any 12 month period is” insert “or is likely to be”;
  - (b) in paragraph (f), for “is likely to be” substitute “is intended to be”;
  - (c) in interpretation of Part B—
    - (i) in the definition of “existing service station” for “31st December 2009” substitute “1st January 2010”;
    - (ii) in the definition of “new service station”, after “1st January 2012” insert “but does not include an existing service station”.

## **Non-ferrous metals**

- 23.** In Section 2.2 (non-ferrous metals)—
- (a) in *interpretation and application*, in paragraph 2 for “Part A(1)(c) to (h) substitute “Part A(1) (a), (b) and (f).”;
  - (b) in Part A(1)—
    - (i) in paragraph (b), for “(such as refining or foundry casting)” substitute “and the operation of non-ferrous metal foundries”;
    - (ii) omit paragraphs (c) to (e);
    - (iii) omit paragraphs (g) to (i);
  - (c) omit the paragraph headed *Interpretation of Part A(1)*;
  - (d) in Part A(2), in paragraph (a), for “(such as refining or foundry casting)” substitute “and operating of non-ferrous metal foundries”.

## **Production of cement and lime**

- 24.** In Section 3.1 (production of cement and lime)—
- (a) in Part A(1)—

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(a) Substituted by S.I. 2012/630.

- (i) in paragraph (a) for “or producing and grinding cement clinker” substitute “in rotary kilns with a production capacity exceeding 500 tonnes per day or in other kilns with a production capacity exceeding 50 tonnes per day”;
- (ii) for paragraph (b) substitute—
  - “(b) Producing lime or magnesium oxide in kilns with a production capacity of more than 50 tonnes per day.”.
- (b) in Part A(2)—
  - (i) for paragraph (a) substitute—
    - “(a) Grinding cement clinker”;
  - (ii) omit paragraph (b);
- (c) in Part B, for paragraph (d) substitute—
  - “(d) Producing lime or magnesium oxide where the activity does not involve the heating of more than 50 tonnes per day of calcium carbonate or calcium magnesium carbonate or both in aggregate.”.

#### **Activities involving asbestos**

25. In Section 3.2 (activities involving asbestos), in Part A(1), omit paragraph (c).

#### **Manufacturing glass and glass fibre**

26. In Section 3.3 (manufacturing glass and glass fibre), in Part A(1)—
- (a) in paragraph (a), after “glass fibre” insert “in plant with a melting capacity exceeding 20 tonnes per day”;
  - (b) omit paragraph (b).

#### **Production of other mineral fibres**

27. In Section 3.4 (production of other mineral fibres), in Part A(1)—
- (a) for paragraph (a) substitute—
    - “(a) Melting mineral substances including the production of mineral fibres in plants with a melting capacity exceeding 20 tonnes per day.”;
  - (b) omit paragraph (b).

#### **The chemical industry**

28. In Chapter 4 (the chemical industry), in paragraph 1 (interpretation of Chapter 4), for “producing in a chemical plant by chemical processing for commercial purposes substances or groups of substances” substitute “producing on an industrial scale by chemical or biological processing of substances or groups of substances”.

#### **Organic chemicals**

29. In Section 4.1 (organic chemicals)—
- (a) in Part A(1) omit paragraphs (b) to (g);
  - (b) for paragraph (b) of Part B, substitute—
    - “(b) The flame bonding or cutting with heated wires of polyurethane foams or polyurethane elastomers.”.

#### **Inorganic chemicals**

30. In Section 4.2 (inorganic chemicals), in Part A(1) omit paragraphs (c), (g), (i) and (j).

### **Chemical fertiliser production**

31. In Section 4.3 (chemical fertiliser production), in Part A(1) omit paragraph (b).

### **Plant health products and biocides**

32. In Section 4.4 (plant health products and biocides), in Part A(1) omit paragraph (b).

### **Pharmaceutical production**

33. In Section 4.5 (pharmaceutical production), in Part A(1)—

- (a) in paragraph (a), omit “using a chemical or biological process”;
- (b) omit paragraph (b).

### **Manufacturing activities involving carbon disulphide or ammonia**

34. In Section 4.7 (manufacturing activities involving carbon disulphide or ammonia), in Part A(1) omit paragraph (a).

### **Incineration and co-incineration of waste**

35. In Section 5.1 (incineration and co-incineration of waste)—

- (a) omit the paragraph headed “Interpretation of Section 5.1”;
- (b) for Part A(1) substitute—

#### **“Part A(1)**

- (a) The incineration of hazardous waste in a waste incineration plant or waste co-incineration plant with a capacity exceeding 10 tonnes per day.
- (b) The incineration of non-hazardous waste in a waste incineration plant or waste co-incineration plant with a capacity exceeding 3 tonnes per hour.
- (c) The incineration, other than incidentally in the course of burning landfill gas or solid or liquid waste, of any gaseous compound containing halogens.”;
- (c) omit Part A(2);
- (d) in Part B, for paragraph (a) substitute—
  - “(a) The incineration in a small waste incineration plant with an aggregate capacity of 50 kilogrammes or more per hour of the following waste—
    - (i) vegetable waste from agriculture and forestry;
    - (ii) vegetable waste from the food processing industry, if the heat generated is recovered;
    - (iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;
    - (iv) cork waste;
    - (v) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coatings;
    - (vi) animal carcasses.”.

### **New section 5.3 (disposal or recovery of hazardous waste)**

36. For Section 5.3 (disposal of waste other than by incineration or landfill), substitute—

“SECTION 5.3

*Disposal or recovery of hazardous waste*

**Part A(1)**

- (a) Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving one or more of the following activities—
  - (i) biological treatment;
  - (ii) physico-chemical treatment;
  - (iii) blending or mixing prior to submission to any of the other activities listed in this Section or in Section 5.1;
  - (iv) repackaging prior to submission to any of the other activities listed in this Section or in Section 5.1;
  - (v) solvent reclamation or regeneration;
  - (vi) recycling or reclamation of inorganic materials other than metals or metal compounds;
  - (vii) regeneration of acids or bases;
  - (viii) recovery of components used for pollution abatement;
  - (ix) recovery of components from catalysts;
  - (x) oil re-refining or other reuses of oil;
  - (xi) surface impoundment.”.

**New section 5.4 (disposal, recovery or a mix of disposal and recovery of non-hazardous waste)**

37. For Section 5.4 (recovery of waste), substitute—

“SECTION 5.4

*Disposal, recovery or a mix of disposal and recovery of non-hazardous waste*

**Part A(1)**

- (a) Disposal of non-hazardous waste with a capacity exceeding 50 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving one or more of the following activities, and excluding activities covered by Council Directive 91/271/EEC concerning urban waste-water treatment—
  - (i) biological treatment;
  - (ii) physico-chemical treatment;
  - (iii) pre-treatment waste for incineration or co-incineration;
  - (iv) treatment of slags and ashes;
  - (v) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.
- (b) Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving one or more of the following activities, and excluding activities covered by Council Directive 91/271/EEC—
  - (i) biological treatment;
  - (ii) pre-treatment of waste for incineration or co-incineration;
  - (iii) treatment of slags and ashes;
  - (iv) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.”.

**New section 5.6 (temporary or underground storage of hazardous waste)**

38. After Section 5.5 (the production of fuel from waste), insert—

“SECTION 5.6

*Temporary or underground storage of hazardous waste*

**Part A(1)**

- (a) Temporary storage of hazardous waste with a total capacity exceeding 50 tonnes pending any of the activities listed in Sections 5.1, 5.2, 5.3 and paragraph (b) of this Section, except—
  - (i) temporary storage, pending collection, on the site where the waste is generated, or
  - (ii) activities falling within Section 5.2.
- (b) Underground storage of hazardous waste with a total capacity exceeding 50 tonnes.”.

**New section 5.7 (treatment of waste water)**

39. After Section 5.6 (temporary or underground storage of hazardous waste), insert—

“SECTION 5.7

*Treatment of waste water*

**Part A(1)**

- (a) Independently operated treatment of waste water not covered by Directive 91/271/EEC and discharged by an installation carrying out any other Part A(1) or A(2) activity.”.

**Paper, pulp and board manufacturing activities**

40. In Section 6.1 (paper, pulp and board manufacturing activities)—

- (a) in Part A(1)—
  - (i) omit paragraph (c);
  - (ii) omit the paragraph headed *Interpretation of Part A(1)*;
- (b) in Part A(2), for paragraph (a) substitute—
  - “(a) Producing, in an industrial plant, one or more of the following wood-based panels with a production capacity exceeding 600m<sup>3</sup> per day: oriented strand board, particleboard or fibreboard.”.

**Coating activities, printing and textile treatments**

41. In Section 6.4 (coating activities, printing and textile treatments)—

- (a) in Part A(1), omit paragraphs (a) and (c);
- (b) in *Interpretation and application of Part B*, in paragraph 3, for “a SED installation” substitute “a regulated facility at which a solvent emission activity is carried out”.

**Timber activities**

42. In Section 6.6 (timber activities), for Part A(1) substitute—

**“Part A(2)**

- (a) Preservation of wood and wood products with chemicals with a production capacity exceeding 75 m<sup>3</sup> per day other than exclusively treating against sapstain.”.

### **Treatment of animal and vegetable matter and food industries**

43. In Section 6.8 (treatment of animal and vegetable matter and food industries), in Part A(1)—
- (a) for paragraph (d) substitute—
    - “(d) Treatment and processing, other than exclusively packaging, of the following raw materials, whether previously processed or unprocessed, intended for the production of food or feed (where the weight of the finished product excludes packaging)—
    - (i) only animal raw materials (other than milk only) with a finished product production capacity greater than 75 tonnes per day;
    - (ii) only vegetable raw materials with a finished product production capacity greater than 300 tonnes per day or 600 tonnes per day where the installation operates for a period of no more than 90 consecutive days in any year;
    - (iii) animal and vegetable raw materials (other than milk only), both in combined and separate products, with a finished product production capacity in tonnes per day greater than—
      - (aa) 75 if A is equal to 10 or more, or
      - (bb)  $300 - (22.5 \times A)$  in any other case,where ‘A’ is the portion of animal material in percent of weight of the finished product production capacity;”;
  - (b) omit paragraph (f).

### **SED activities**

44. Omit Section 7 (SED activities).

### **Schedule 3 (exempt facilities: descriptions and conditions)**

45. In Schedule 3 to the principal Regulations—
- (a) in paragraph 3 of Section 1 of Chapter 2 of Part 1 (general conditions), after sub-paragraph (c), insert—
    - “;
    - (d) the operation is not an activity that falls within Chapter 5 of Part 2 of Schedule 1 (waste management)”;
  - (b) in paragraph 6 of Section 2 of Chapter 4 of Part 1 (disposal by incineration)—
    - (i) in sub-paragraph (1) for “an incinerator” substitute “a small waste incineration plant”;
    - (ii) for sub-paragraph (2) substitute—
      - “(2) The waste described in this paragraph is the waste mentioned in Article 42(2)(a)(i) and (iii) of the Industrial Emissions Directive.”;
    - (iii) in sub-paragraph (4)(a) for “incinerator” substitute “small waste incineration plant”;
    - (iv) in sub-paragraph (4)(b) for “incinerators” wherever it occurs, substitute “small waste incineration plants”.

### **Schedule 5 (environmental permits)**

- 46.—(1) Part 1 of Schedule 5 to the principal Regulations is amended as follows.
- (2) In paragraph 5(1)(c) omit “, unless the facility is a Part A installation”.
  - (3) In paragraph 5(4)(d) for “paragraph (d) or (e)” substitute “paragraphs (d) to (g)”.
  - (4) In paragraph 5(5)—

- (a) for the definition of “dry cleaning” substitute—
    - ““dry cleaning” means an industrial or commercial activity using volatile organic compounds to clean garments, furnishing and similar consumer goods excluding the manual removal of stains and spots in the textile or clothing industry;”;
  - (b) omit the definitions of “co-incineration plant” and “incineration plant”;
  - (c) in the definition of “substantial change”, in paragraph (b) for “an incineration plant or co-incineration plant” substitute “a waste incineration plant or waste co-incineration plant”.
- (5) In paragraph 10 (consultation with other member States)—
- (a) in sub-paragraph (4)—
    - (i) in the definition of “member State”, for “the IPPC Directive” substitute “Annex I to the Industrial Emissions Directive”;
    - (ii) in the definition of “relevant Article”, for “Article 18 of the IPPC Directive” substitute “Article 26 of the Industrial Emissions Directive”;
    - (iii) in the definition of “relevant information”, for “Annex V to the IPPC Directive” substitute “Annex IV to the Industrial Emissions Directive”;
  - (b) in sub-paragraph (5) for “IPPC Directive” substitute “Industrial Emissions Directive”.
- (6) In paragraph 16(3)(d) for “IPPC Directive” substitute “Industrial Emissions Directive”.
- (7) After paragraph 19 insert—

**“Incidents and accidents: deemed condition of a permit**

**20.** Every environmental permit in relation to a regulated facility to which Schedule 7A, 13A or 14 applies is deemed to contain the following conditions, unless such conditions are included in the permit—

- (a) in the event that the operation of a regulated facility gives rise to an incident or accident which significantly affects the environment, the operator of that regulated facility must immediately—
  - (i) inform the regulator,
  - (ii) take the measures necessary to limit the environmental consequences of such an incident or accident, and
  - (iii) take the measures necessary to prevent further possible incidents or accidents;
- (b) in the event of a breach of any condition of a permit, the operator of a regulated facility must immediately—
  - (i) inform the regulator, and
  - (ii) take the measures necessary to ensure that compliance is restored within the shortest possible time;
- (c) in the event of a breach of any condition of a permit which poses an immediate danger to human health or threatens to cause an immediate significant adverse effect on the environment, the operator of a regulated facility must immediately suspend the operation of the regulated facility or the relevant part of it until compliance with the condition of the permit has been restored.”.

**Amendment to Schedule 7 (Part A installations)**

**47.—**(1) In Schedule 7 to the principal Regulations—

- (a) in the heading omit “and Part A mobile plant”;
- (b) for paragraph 1 substitute—

“**1.—**(1) This Schedule applies until 7th January 2014 in relation to every existing installation.

- (2) This Schedule ceases to apply on 7th January 2014.”;
  - (c) in paragraph 2(b) omit “or Part A mobile plant”;
  - (d) omit paragraph 4 (b);
  - (e) omit paragraph 5(2)(b) and (e);
  - (f) in paragraph 7 omit “or Part A mobile plant”.
- (2) After Schedule 7 to the principal Regulations, insert—

## “SCHEDULE 7A

Regulation 35(2)(a)

### Part A installations: Industrial Emissions Directive

#### **Application**

1. This Schedule applies—

- (a) in relation to every new installation;
- (b) from 7th January 2014 in relation to every existing installation.

#### **Interpretation**

2.—(1) In this Schedule, “new installation” means a Part A installation which is not an existing installation.

(2) When interpreting the Industrial Emissions Directive for the purposes of this Schedule—

- (a) except where defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) “installation” means Part A installation;
- (c) “permit” means environmental permit;
- (d) the competent authority is the regulator;
- (e) “substance” is to be read as including, after the words “its compounds” in Article 3(1) of the Industrial Emissions Directive, the words “and any biological entity or micro-organism”;
- (f) “general binding rule” means a standard rule published under regulation 26.

#### **Exercise of regulator’s functions: general**

3. The regulator must exercise its functions under these Regulations for the purpose of achieving a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land.

#### **Applications for the grant of an environmental permit**

4. The regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 12 of the Industrial Emissions Directive.

#### **Exercise of relevant functions**

5. The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

- (a) Article 5(1) and (3);
- (b) Article 7;

- (c) Article 8(2);
- (d) Article 9;
- (e) Article 11;
- (f) Article 13(7);
- (g) Article 14;
- (h) Article 15 (excluding the penultimate sub-paragraph of Article 15(4));
- (i) Article 16;
- (j) Article 17;
- (k) Article 18;
- (l) Article 20(1) and (2);
- (m) Article 22 (excluding the last sub-paragraph of Article 22(2));
- (n) Article 26(4).

### **Developments in best available techniques**

6.—(1) The regulator must ensure that it is informed of developments in best available techniques and of the publication of any new or updated BAT conclusions and where appropriate must exercise its functions so as to encourage the application of emerging techniques, in particular those identified in BAT reference documents.

(2) In this paragraph—

- (a) “BAT conclusions” has the meaning given in Article 3(12) of the Industrial Emissions Directive;
- (b) “BAT reference document” has the meaning given in Article 3(11) of the Industrial Emissions Directive;
- (c) “best available techniques” has the meaning given in Article 3(10) of the Industrial Emissions Directive;
- (d) “emerging technique” has the meaning given in Article 3(14) of the Industrial Emissions Directive.

### **Review of environmental permits**

7. The regulator must review an environmental permit in accordance with Article 21 of the Industrial Emissions Directive if any of the circumstances in that Article applies in relation to the Part A installation whose operation the permit authorises.

### **Public participation**

8. The regulator must exercise its functions so as to meet the requirements of Article 24 of the Industrial Emissions Directive.

### **Inspections**

9. When inspecting a regulated facility in accordance with regulation 34(2) the regulator must comply with Article 23 of the Industrial Emissions Directive.”.

### **Schedule 8 (part B installations and part B mobile plant)**

48. For Schedule 8 to the principal Regulations substitute—

Part B installations and Part B mobile plant etc.

**Application**

1.—(1) In England and Wales, this Schedule applies in relation to every Part B installation.

(2) In Wales only this Schedule also applies in relation to every small waste incineration plant (in addition to the provisions in Schedule 13 or 13A) and in relation to every solvent emission activity (in addition to the provisions in Schedule 14).

**Interpretation**

2. For the purposes of this Schedule—

- (a) “best available techniques” means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing in principle the basis for emission limit values relevant to air pollution designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole; where—
  - (i) “techniques” includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;
  - (ii) “available techniques” means those techniques developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, and which are reasonably accessible to the operator;
  - (iii) “best” means most effective in achieving a high general level of protection of the environment as a whole;
- (b) “installation” means a Part B installation, Part B mobile plant, small waste incineration plant or solvent emission activity.

**Exercise of regulator’s functions: general**

3. The regulator must exercise its functions under these Regulations for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

**Applications for the grant of an environmental permit**

4.—(1) The regulator must ensure that every application for the grant of an environmental permit includes the following information—

- (a) the installation and its activities;
- (b) the sources of emissions to air from the installation;
- (c) the nature and quantities of foreseeable emissions into the air from the installation as well as identification of significant effects of those emissions on the environment;
- (d) the proposed technology or other techniques for preventing, or where that is not possible, reducing emissions to air from the installation;
- (e) further measures planned to ensure that the installation is operated in such a way that—
  - (i) all appropriate preventive measures are taken against pollution, in particular through the application of best available techniques; and
  - (ii) no significant pollution is caused;

- (f) measures planned to monitor emissions into the air;
- (g) the main alternatives, if any, to the techniques or measures required in paragraphs (d) to (f);
- (h) a non-technical summary of the details referred to in paragraphs (a) to (g).

(2) Paragraph (1)(d) does not apply to the extent that the application relates to the burning of waste oil in an appliance with a net rated thermal input of less than 0.4 megawatts at a Part B installation.

(3) In the case of a new installation or a substantial change where Article 4 of Directive 85/337/EEC<sup>(a)</sup> applies, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 or 7 of that Directive shall be taken into consideration by the regulator for the purposes of granting the environmental permit.

### **Exercise of relevant functions**

**5.—(1)** The regulator must, for the purpose of preventing or, where that is not practicable, reducing emissions into the air, exercise its relevant functions in relation to the installations to which this Schedule applies—

- (a) so as to ensure that they are operated in such a way that—
  - (i) appropriate preventive measures are taken against air pollution, in particular through the application of best available techniques;
  - (ii) no significant air pollution is caused;
- (b) where an environmental quality standard requires stricter conditions than those achievable by the use of best available techniques, additional measures are required by the permit, without prejudice to other measures which might be taken to comply with environmental quality standards;
- (c) permits include emission limit values, which may if appropriate be supplemented or replaced by equivalent parameters or technical measures, for polluting substances likely to be emitted into the air from the installation concerned in significant quantities;
- (d) where emissions of a greenhouse gas from an installation are specified in Annex 1 to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the European Union<sup>(b)</sup> in relation to an activity carried out in that installation, the permit does not include an emission limit value for direct emissions of that gas unless it is necessary to ensure that no significant local pollution is caused.

(2) The regulator must ensure that emission limit values or equivalent parameters or technical measures are based on best available techniques without prescribing the use of any technique or specific technology, but taking into account the technical characteristics of the installation, including (except in the case of mobile plant) its geographical location and the local environmental conditions.

(3) In this paragraph “substance” means any chemical element and its compounds and any biological entity or micro-organism, with the exception of the following substances—

- (a) radioactive substances as defined in Article 1 of Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation<sup>(c)</sup>;

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<sup>(a)</sup> OJ No L 175, 5.7.85, p 40.

<sup>(b)</sup> OJ No L 275, 25.10.03, p 32.

<sup>(c)</sup> OJ No L 159, 29.6.1996, p 1.

- (b) genetically modified micro-organisms as defined in Article 2(b) of Directive 2009/41/EC of the European Parliament and of the Council on the contained use of genetically modified micro-organisms<sup>(a)</sup>;
- (c) genetically modified organisms as defined in point 2 of Article 2 of Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms<sup>(b)</sup>.

### **Change in operation**

6.—(1) Operators holding environmental permits for installations to which this Schedule applies must notify the regulator of any substantial change in the operation of that installation.

(2) Where there is a substantial change in the operation of an installation, the regulator must ensure that the environmental permit is reviewed and, if necessary, updated.

### **Review of permits**

7. The regulator must review an environmental permit where—

- (a) the air pollution caused by the installation is of such significance that the existing emission limit values of the permit need to be revised or new values need to be included in the permit;
- (b) substantial changes in best available techniques make it possible to reduce emissions significantly without imposing excessive costs;
- (c) the operational safety of the process or activity requires other techniques to be used; or
- (d) new legislation necessitates a review.

### **Developments in best available techniques**

8. The regulator must ensure that it is informed of developments in best available techniques.”.

## **Schedule 9 (waste operations)**

49.—(1) Schedule 9 to the principal Regulations is amended as follows.

(2) In paragraph 3(2), in the definition of “relevant waste operation” in paragraph (a) omit “Part A mobile plant or”.

(3) For sub-paragraph 3(3)(b) and (c) substitute—

- “(b) the disposal of hazardous waste (other than by incineration or landfill) in a facility with a capacity of more than 10 tonnes per day;
- (c) the recovery of hazardous waste falling within sub-paragraph (i) to (v), (viii) or (x) of paragraph (a) of Part A(1) of Section 5.3 of Part 2 of Schedule 1;
- (d) the disposal of non-hazardous waste falling within paragraph (a) of Part A(1) of Section 5.4 of Part 2 of Schedule 1;
- (e) the recovery or a mix of recovery and disposal of non-hazardous waste falling within paragraph (b) of Part A(1) of Section 5.4 of Part 2 of Schedule 1;
- (f) temporary or underground storage of hazardous waste falling within Part A(1) of Section 5.6 of Part 2 of Schedule 1.”.

(4) In paragraph 3(4), after paragraph (a) omit “and” and at the end insert—

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(a) OJ No L 125, 21.5.2009, p 75.

(b) OJ No L 106, 17.4.2001, p 1.

- “, or  
(c) is an exempt waste operation”.

### **Schedule 13 (waste incineration)**

**50.**—(1) In Schedule 13 to the principal Regulations—

(a) for paragraph 1 substitute—

“**1.**—(1) This Schedule applies until 7th January 2014 in relation to every existing installation that is a waste incineration plant or waste co-incineration plant except those treating only the waste mentioned in Article 42(2)(a)(i) and (iii) of the Industrial Emissions Directive.

(2) This Schedule ceases to apply on 7th January 2014.”;

(b) omit paragraph 2(1) and (2)(a) and (b).

(2) After Schedule 13 to the principal Regulations, insert—

## “SCHEDULE 13A

Regulation 35(2)(g)

### Waste Incineration: Industrial Emissions Directive

#### **Application**

**1.**—(1) This Schedule applies in relation to—

(a) every small waste incineration plant, and

(b) every new waste incineration plant or new waste co-incineration plant,

to which Chapter IV of the Industrial Emissions Directive applies, except those which are operated as a domestic activity in connection with a private dwelling.

(2) It applies from 7th January 2014 in relation to every existing installation that is a waste incineration plant or waste co-incineration plant and to which Chapter IV of the Industrial Emissions Directive applies, except those which are operated as a domestic activity in connection with a private dwelling.

#### **Interpretation**

**2.**—(1) In this Schedule “new waste incineration plant” or “new waste co-incineration plant” means a waste incineration plant or co-incineration plant which is not an existing installation.

(2) When interpreting Chapter IV of the Industrial Emissions Directive for the purposes of this Schedule—

(a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is the regulator;

(c) “permit” means environmental permit;

(d) “general binding rule” means a standard rule published under regulation 26.

#### **Applications for the grant of an environmental permit**

**3.** The regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 44 of the Industrial Emissions Directive.

### **Exercise of relevant functions**

**4.—(1)** The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

- (a) Article 5(1) and (3);
- (b) Article 7;
- (c) Article 8(2);
- (d) Article 9;
- (e) Article 42(1)
- (f) Article 43;
- (g) Article 45(1), (2) and (4);
- (h) Article 46;
- (i) Article 47;
- (j) Article 48(1) to (4);
- (k) Article 49;
- (l) Article 50;
- (m) Article 51(1) to (3);
- (n) Article 52;
- (o) Article 53;
- (p) Article 54;
- (q) Article 55;
- (r) Article 82(5) and (6).

(2) But when interpreting the Industrial Emissions Directive for the purposes of this Schedule—

- (a) in Article 51(1) ignore the words “Member states may lay down rules governing these authorisations”;
- (b) paragraph 2.1(c) of Part 6 of Annex VI is to be read as if the words “and dioxin-like polychlorinated biphenyls and polycyclic aromatic hydrocarbons” appeared after the word “furans”, but only in the case of particular plants where the regulator can demonstrate that emissions of those additional substances are, or are likely to be, significant.”.

### **Schedule 14 (solvent emission activities)**

**51.** For Schedule 14 to the principal Regulations substitute—

## **“SCHEDULE 14**

Regulation 35(2)(h)

## **Solvent Emission Activities**

### **Application**

**1.** This Schedule applies in relation to every solvent emission activity.

### **Interpretation**

**2.** When interpreting Chapter V of the Industrial Emissions Directive for the purposes of this Schedule—

- (a) except where defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) the competent authority is the regulator;
- (c) “installation” means a stationary technical unit within which a solvent emission activity is carried out, and any other directly associated activities on the same site which have a technical connection with the solvent emission activity and which could have an effect on emission of volatile organic compounds;
- (d) “permit” means environmental permit;
- (e) “general binding rule” means a standard rule published under regulation 26.

#### **Exercise of relevant functions**

3. The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

- (a) Article 5(1) and (3);
- (b) Article 7;
- (c) Article 8(2);
- (d) Article 9;
- (e) Article 57;
- (f) Article 58;
- (g) Article 59 (except article 59(4));
- (h) Article 60;
- (i) Article 61;
- (j) Article 62;
- (k) Article 63;
- (l) Article 65;
- (m) Article 82(7), (8) and (9).”.

#### **Schedule 15 (large combustion plants)**

52.—(1) In Schedule 15 to the principal Regulations, for paragraph 1 substitute—

“1.—(1) This Schedule applies until 1st January 2016 in relation to every existing installation that is a combustion plant to which the Large Combustion Plants Directive applies by virtue of Article 1 of that Directive.

(2) This Schedule ceases to apply on 1st January 2016.”.

(2) After Schedule 15 to the principal Regulations, insert—

### **“SCHEDULE 15A**

Regulation 35(2)(i)

### **Large Combustion Plants: Industrial Emissions Directive**

#### **Application**

1. This Schedule applies—

- (a) in relation to every new large combustion plant;
- (b) from 1st January 2016 in relation to every existing installation that is a large combustion plant.

## **Interpretation**

2.—(1) In this Schedule—

“combustion plant” has the meaning given in Article 3(25) of the Industrial Emissions Directive;

“large combustion plant” means a combustion plant with a total rated thermal input of 50 megawatts or more to which chapter III of the Industrial Emissions Directive applies;

“new large combustion plant” means a large combustion plant which is not an existing installation.

(2) When interpreting the Industrial Emissions Directive for the purposes of this Schedule—

(a) except where defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is—

(i) for the purposes of exercising a judgement as to whether there is an overriding need to maintain energy supplies under Articles 30(6) and 37 the Industrial Emissions Directive, the appropriate authority;

(ii) otherwise, the regulator;

(c) “permit” means environmental permit.

## **Exercise of relevant functions**

3. The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 29;

(b) Article 30(1) to (8), except the second sub-paragraph of 30(5) and the last sub-paragraph of 30(6);

(c) Article 31(1) and (2);

(d) Article 32(2) and (3);

(e) Article 33 except 33(2);

(f) Article 34(1) and (2);

(g) Article 35(1);

(h) Article 37;

(i) Article 38;

(j) Article 39;

(k) Article 40.

## **Interruption in supply of fuel**

4. The regulator must—

(a) immediately inform the appropriate authority of any derogation under Article 30(5) of the Industrial Emissions Directive;

(b) immediately inform the appropriate authority if it considers that a derogation in accordance with Articles 30(6) or 37(2) of the Industrial Emissions Directive is or might be appropriate.”.

## **Schedule 17 (titanium dioxide)**

53.—(1) In Schedule 17 to the principal Regulations, for paragraph 1 substitute—

“1.—(1) This Schedule applies until 7th January 2014 in relation to every existing installation where the chlorine process or the sulphate process is carried on.

(2) This Schedule ceases to apply on 7th January 2014.”.

(2) After Schedule 17 to the principal Regulations, insert—

## “SCHEDULE 17A

Regulation 35(2)(k)

### Titanium Dioxide: Industrial Emissions Directive

#### **Application**

1. This Schedule applies—

- (a) in relation to every new installation in which titanium dioxide is produced; and
- (b) from 7th January 2014 in relation to every existing installation in which titanium dioxide is produced.

#### **Interpretation**

2.—(1) In this Schedule “new installation” means a Part A installation which is not an existing installation.

(2) When interpreting Chapter VI of the Industrial Emissions Directive for the purposes of this Schedule—

- (a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) the competent authority is the regulator;
- (c) “permit” means environmental permit.

#### **Exercise of relevant functions**

3. The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

- (a) Article 67;
- (b) Article 68;
- (c) Article 69;
- (d) Article 70.”.

#### **Schedule 20 (mining waste operations)**

54. In paragraph 12(2) of Schedule 20 to the principal Regulations, for “Article 2(12) of the IPPC Directive” substitute “Article 3(10) of the Industrial Emissions Directive”.

## PART 3

### Transitional provisions and revocations

#### **Activities no longer requiring permits**

55.—(1) Where the activity to which an environmental permit relates falls only within a description in Part 2 of Schedule 1 to the principal Regulations which by virtue of the coming into force of these Regulations is no longer included in that Schedule, that permit ceases to have effect.

(2) Where an environmental permit contains any condition which relates solely to a description of an activity which was included in Part 2 of Schedule 1 to the principal Regulations but which by virtue of the coming into force of these Regulations is no longer included in that Schedule, that condition ceases to have effect.

#### **Former Part A activities**

**56.**—(1) This regulation applies where an environmental permit is for an activity—

- (a) which, immediately before the coming into force of these Regulations, was a Part A activity, and
- (b) which, on the coming into force of these Regulations, becomes a Part B activity or any other regulated facility.

(2) Where this regulation applies—

- (a) the permit is deemed to be granted under the principal Regulations as amended by these Regulations; and
- (b) any conditions of that permit which are applicable only to Part A installations cease to have effect.

(3) In this regulation, “Part B activity” and “regulated facility” have the same definition as in the principal Regulations as amended by these Regulations.

#### **Consequential amendment**

**57.**—(1) The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012(a) are amended as follows.

(2) In regulation 3(3) for “an SED (Solvent Emission Directive) activity” substitute “a solvent emission activity”.

(3) In regulation 3(4)—

- (a) for “SED (Solvent Emission Directive) Activity” substitute “solvent emission activity”;
- (b) for sub-paragraph (a) substitute—

“(a) Schedule 14 to the Environmental Permitting (England and Wales) Regulations 2010.”.

#### **Revocations**

**58.**—(1) The following Regulations are revoked—

- (a) the Clean Air Enactments (Repeals and Modifications) Regulations 1974(b);
- (b) the Control of Industrial Air Pollution (Transfer of Powers of Enforcement) Regulations 1987(c);
- (c) the Control of Asbestos in the Air Regulations 1990(d).

(2) Schedules 7, 13 and 17 to the principal Regulations are revoked.

(3) Schedule 15 to the principal Regulations is revoked.

19th February 2013

*de Mauley*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

*John Griffiths*

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(a) S.I. 2012/1715.  
(b) S.I. 1974/2170.  
(c) S.I. 1987/180.  
(d) S.I. 1990/556.

20th February 2013

Minister for Environment and Sustainable Development  
one of the Welsh Ministers

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Environmental Permitting (England and Wales) Regulations 2010 (SI 2010/675) (“the principal Regulations”), to transpose Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) (Recast) (“Industrial Emissions Directive”) (OJ No L 334, 17.12.2010, p 17).

Regulations 4 to 9 amend various definitions in accordance with the Industrial Emissions Directive. Regulation 10 inserts a new provision into regulation 12 of the principal Regulations whereby the requirement for an environmental permit will not apply to certain activities until 7th July 2015. Regulation 15 makes provision for incidents and accidents in accordance with articles 7 and 8 of the Industrial Emissions Directive.

Regulation 16 provides for a new defence in relation to the requirement in regulation 12 of the principal Regulations to hold a permit where an application for a permit is made by the specified date.

Regulations 20 to 44 make amendments to Part 2 of Schedule 1 to the principal Regulations. Amendments to some of the Sections in that Part implement changes introduced by Annex 1 to the Industrial Emissions Directive. Amendments also delete some of the activities in Schedule 1 which are not included in that Directive and change the description of existing activities from Part A(1) to A(2) or from A(2) to Part B.

Regulation 46 provides for the insertion into permits of a deemed provision in relation to incidents and accidents.

Regulation 47 amends Schedule 7 and inserts a new Schedule 7A which applies to new Part A activities from the date the Regulations come into force and to existing Part A activities from 7th January 2014.

Regulation 48 substitutes a new Schedule 8 which applies to Part B activities in England and Wales. In Wales, Schedule 8 applies to solvent emission activities and small waste incineration plants in addition to the provisions of Schedules 13 and 14.

Regulation 50 amends Schedule 13 and inserts a new Schedule 13A which applies to new waste incineration and co-incineration plants from the date the regulations come into force and to existing waste incineration plants and waste co-incineration plants from 7th January 2014. Under the principal Regulations as amended, waste incineration plants and waste co-incineration plants which have a capacity below 10 tonnes per day of hazardous waste or below 3 tonnes per hour of non-hazardous waste are small waste incineration plants. These will no longer be subject to Schedule 7 or 7A but will be subject to Schedule 13A.

Regulation 51 substitutes a new Schedule 14 relating to solvent emission activities. These supersede SED activities under the principal Regulations.

Regulation 52 amends Schedule 15 and inserts a new Schedule 15A which applies to new large combustion plants from the date the Regulations come into force and to existing large combustion plants from 1st January 2016.

Regulation 53 amends Schedule 17 and inserts a new Schedule 17A which applies to new installations producing waste titanium dioxide from the date the regulations come into force and to new installations producing waste titanium dioxide from 7th January 2014.

Regulations 55 and 56 make provision for changes to the classification of activities in Schedule 1 and for those which cease to be covered by 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, Ergon House, Horseferry Road, London SW1P 2AL and is published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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