
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions in the Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538 as amended by section 88(2) of the Climate Change Act 2008 (c. 28), S.I. 2009/890 and 2009/1799) (“the 2007 Regulations”) relating to exempt waste operations. They revoke and re-implement provisions in the 2007 Regulations partially giving effect to the Waste Framework Directive 2006/12/EC of the European Parliament and of the Council (OJ No L 114, 27.4.2006, p9) (“the Directive”).

An exempt waste operation is a waste disposal or recovery operation that does not require an environmental permit under regulation 12 of the 2007 Regulations as provided for in Article 11 of the Directive. Regulation 5 of the 2007 Regulations defines an exempt waste operation.

These Regulations revise the definition of an exempt waste operation (regulation 4). They also insert a new definition into regulation 2 of the 2007 Regulations (regulation 3).

They provide for the revocation of an existing environmental permit (in whole or in part) where, as result of the amendments made by these Regulations, the permit covers an exempt waste operation (regulation 5).

Regulation 38 (offences) of the 2007 Regulations is amended to reflect the amendments made to the record-keeping requirements set out in Schedule 2, as inserted by Schedule 1 to these Regulations (regulation 6).

The Regulations also amend the provisions in the 2007 Regulations relating to waste operations that are not covered by the Waste Framework Directive but which may still require an environmental permit under 33(1)(a) of the Environmental Protection Act 1990 to the extent that they involve the deposit of waste. The 2007 Regulations provide that certain of these operations do not require an environmental permit provided that certain conditions are met. These Regulations continue to provide for this but in a revised form with the revisions set out in Schedule 3A, inserted by Schedule 2 to these Regulations (regulation 7).

Transitional provisions are provided for establishments and undertakings that were registered in relation to exempt waste operations under the 2007 Regulations immediately before these Regulations came into force (regulation 8). The savings provisions in regulation 16 of these Regulations are also relevant for the purposes of these transitional provisions.

The definition of “excluded activity” in paragraph 1 of Section 6.8 of Part 2 of Schedule 1 is amended so that the production of compost for growing mushrooms is an excluded activity for the purpose of that paragraph meaning that this becomes a Part B activity (as defined in regulation 3(1) of the 2007 Regulations) requiring an environmental permit (regulation 9).

The Regulations substitute Schedule 2 (exempt waste operations: general) of the 2007 Regulations with a new Schedule setting out the specific procedural requirements relating to the registration of exempt waste operations (regulation 10). They also substitute Schedule 3 (descriptions: exempt waste operations and other operations to which section 33(1)(a) of the 1990 Act does not apply) of the 2007 Regulations with a new Schedule 3 (regulation 11). However, the substitutions do not apply for the purposes of the transitional provisions inserted by regulation 8. Therefore, Schedule 2 and 3 to the 2007 Regulations continue to apply for the purposes of the transitional provisions.

The Regulations make a consequential amendment to the public register provisions in paragraph 1(1)(k) of Schedule 19 to the 2007 Regulations necessitated by the provisions in paragraph 11 of

substituted Schedule 2 (which provides for directions that certain information must be excluded from the register) (regulation 12).

The Regulations make consequential amendments to section 41 and section 56 of the Environmental Protection Act 1995 relating to Environment Agency charging schemes (regulation 13). As a result of the amendments, such charging schemes may only cover the registration of exempt waste operations where the operation is the repair or refurbishment of WEEE. A related consequential amendment is made to the Waste Management (England and Wales) Regulations 2006 (regulation 14). The savings provisions in regulation 16(2) and (3) of these Regulations mean that the Environment Agency can continue to make charging schemes for the registration of “notifiable” waste operations (as defined in paragraph 1 of Schedule 2 to the 2007 Regulations) and operations involving the recovery of scrap metal for the purposes of the transitional provisions.

Regulation 15 makes a minor consequential amendment to the Waste Batteries and Accumulators Regulations 2009 and regulation 16 contains savings provisions previously described.

The substituted Schedule 2 defines who is an exemption registration authority – in most cases, this is the Environment Agency but in some cases, local authorities are exemption registration authorities (paragraph 2). Paragraph 3(1) sets out the requirements that must be met by a waste operation in order for it to be an exempt waste operation. Paragraph 4 sets out the procedure for registering exempt waste operations. Paragraph 5 contains provisions relating to restrictions on the registration of multiple waste operations at the same place. Paragraph 6 contains provisions for fees in relation to the registration of a WEEE operation (repair or refurbishment of WEEE). Paragraph 7 contains provisions relating to the period of validity of registrations and the renewal of registrations. Paragraph 8 contains provisions relating to changes to information appearing on the register (referred to as relevant particulars). Paragraph 9 sets out the requirements for the exemption registration authority as regards establishing and maintaining a register of exempt waste operations. Paragraph 10 sets out the circumstances under which such an authority must remove an entry from the register. Paragraph 11 makes provision for information affecting national security to be excluded from the register. Paragraph 12 sets out record keeping requirements and paragraph 13 sets out inspection requirements.

The substituted Schedule 3 set out sets revised descriptions and conditions for exempt waste operations (regulation 11). The provisions of Schedule 3 in the 2007 Regulations that relate to other waste operations to which section 33(1)(a) of the 1990 Act does not apply are revised and set out in new Schedule 3A.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Waste Management Division, Department for Environment, Food and Rural Affairs, Ergon House, Horseferry Road, London, SW1P 2AL and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk).