
DRAFT STATUTORY INSTRUMENTS

2010 No.

The Environmental Permitting
(England and Wales) Regulations 2010

PART 1

General

Interpretation: general

2.—(1) In these Regulations—

“the 1980 Act” means the Highways Act 1980(1);

“the 1990 Act” means the Environmental Protection Act 1990(2);

“the 1991 Act” means the Water Resources Act 1991(3);

“the 1993 Act” means the Radioactive Substances Act 1993(4);

“the 1995 Act” means the Environment Act 1995(5);

“the 2007 Regulations” means the Environmental Permitting (England and Wales) Regulations 2007(6);

“the 2009 Regulations” means the Groundwater (England and Wales) Regulations 2009(7);

“the Agency” means the Environment Agency;

“agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947;

“the Animal By-Products Regulations” means—

(a) in relation to England, the Animal By-Products Regulations 2005(8),

(b) in relation to Wales, the Animal By-Products (Wales) Regulations 2006(9);

“appropriate authority” means—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the Welsh Ministers;

“Category A mining waste facility” means a mining waste facility that is classified as Category A under Article 9 of the Mining Waste Directive;

“class”, in relation to a regulated facility, is to be construed in accordance with regulation 8;

(1) 1980 c. 66.

(2) 1990 c. 43.

(3) 1991 c. 57.

(4) 1993 c. 12.

(5) 1995 c. 25.

(6) S.I. 2007/3538, amended by section 88(2) of the Climate Change Act 2008 (c. 28), S.I. 2009/890, S.I. 2009/1799 and S.I. 2009/3381.

(7) S.I. 2009/2902.

(8) S.I. 2005/2347 to which there are amendments not relevant to these Regulations.

(9) S.I. 2006/1293 (W.127).

“coastal waters” has the meaning given in section 104 of the 1991 Act;

“confidential information” means information that is commercially or industrially confidential in relation to any person;

“date of registration” has the meaning given in paragraph 1 of Schedule 2;

“directly associated activity”—

- (a) in relation to a SED activity, has the meaning given in paragraph 2 of Schedule 14,
- (b) in relation to any other activity falling within Part 2 of Schedule 1, has the meaning given in paragraph 1 of Part 1 of that Schedule;

“disposal”—

- (a) except in relation to a radioactive substances activity, has the meaning given in paragraph 2 of Schedule 9,
- (b) in relation to a radioactive substances activity, has the meaning given in paragraph 1 of Part 2 of Schedule 23;

“effluent” has the same meaning as in the 1991 Act;

“emission” means—

- (a) in relation to a Part A installation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land,
- (b) in relation to a Part B installation, the direct release of substances or heat from individual or diffuse sources in the installation into the air,
- (c) in relation to Part A mobile plant, the direct or indirect release of substances, vibrations, heat or noise from the mobile plant into the air, water or land,
- (d) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air,
- (e) in relation to a waste operation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land,
- (f) in relation to a mining waste operation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land, and
- (g) in relation to a radioactive substances activity, the direct or indirect release of radioactive material or radioactive waste;

“enforcement notice” means a notice served under regulation 36;

“environmental permit” has the meaning given in regulation 13(1);

“environmental permit condition” means a condition of an environmental permit;

“establishment” has the same meaning as in the Waste Framework Directive;

“excluded waste operation” means any part of a waste operation not carried on at an installation or by means of Part A mobile plant or Part B mobile plant that—

- (a) is the subject of a licence under Part 2 of the Food and Environment Protection Act 1985(10) or does not require such a licence by virtue of an order under section 7 of that Act, or

- (b) relates to waste described in regulation 7(1) of the Controlled Waste Regulations 1992⁽¹¹⁾;
- “exempt facility” has the meaning given in regulation 5;
- “exempt groundwater activity” has the meaning given in regulation 5;
- “exempt waste operation” has the meaning given in regulation 5;
- “exempt water discharge activity” has the meaning given in regulation 5;
- “exemption registration authority” has the meaning given in paragraph 2 of Schedule 2;
- “existing mining waste facility” means a mining waste facility in operation on 1st May 2008;
- “extractive waste” means waste within the meaning of Article 2(1) of the Mining Waste Directive, except where it is excluded from the scope of that Directive by Article 2(2)(a) and (b);
- “groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;
- “groundwater activity” has the meaning given in paragraph 3 of Schedule 22;
- “hazardous substance” has the meaning given in paragraph 4 of Schedule 22;
- “hazardous waste”, except in Section 5.1 of Part 2 of Schedule 1—
- (a) in relation to England, has the meaning given in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005⁽¹²⁾,
- (b) in relation to Wales, has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005⁽¹³⁾;
- “highway drain” means a drain which a highway authority or other person is entitled to keep open by virtue of section 100 of the 1980 Act;
- “household waste” has the meaning given in section 75(5) of the 1990 Act;
- “inland freshwaters” has the meaning given in section 104 of the 1991 Act;
- “installation” has the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “lake or pond” and “waters of any lake or pond” have the same meaning as in section 104 of the 1991 Act;
- “landfill” has the meaning given in paragraph 2(1)(d) of Schedule 10;
- “landfill closure notice” means a closure notice served under paragraph 10 of Schedule 10;
- “local authority” has the meaning given in regulation 6;
- “mining waste facility” has the meaning given in paragraph 2(1) of Schedule 20;
- “mining waste facility closure notice” means a closure notice served under paragraph 10 of Schedule 20;
- “mining waste operation” has the meaning given in paragraph 2(1) of Schedule 20;
- “mobile plant” means any of the following—
- (a) Part A mobile plant,
- (b) Part B mobile plant,
- (c) waste mobile plant;
- “mobile radioactive apparatus” has the meaning given in paragraph 1 of Part 2 of Schedule 23;

⁽¹¹⁾ S.I. 1992/558; relevant amending instruments are S.I. 1993/556, 1994/1056, 1995/228 and 2006/937.

⁽¹²⁾ S.I. 2005/894.

⁽¹³⁾ S.I. 2005/1806 (W. 138).

- “net rated thermal input” has the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “non-hazardous waste”, except in Section 5.1 of Part 2 of Schedule 1, means waste which is not hazardous waste;
- “nuclear site”, in relation to a radioactive substances activity, has the meaning given in paragraph 1 of Part 2 of Schedule 23;
- “operate a regulated facility” and “operator” have the meaning given in regulation 7;
- “Part A activity” and “Part B activity” have the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “Part A installation”, “Part A(1) installation”, “Part A(2) installation” and “Part B installation” have the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “Part A mobile plant”, “Part A(1) mobile plant”, “Part A(2) mobile plant” and “Part B mobile plant” have the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “pollutant” means any substance liable to cause pollution;
- “pollution”, in relation to a water discharge activity or groundwater activity, means the direct or indirect introduction, as a result of human activity, of substances or heat into the air, water or land which may—
- be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,
 - result in damage to material property, or
 - impair or interfere with amenities or other legitimate uses of the environment;
- “pollution”, other than in relation to a water discharge activity or groundwater activity, means any emission as a result of human activity which may—
- be harmful to human health or the quality of the environment,
 - cause offence to a human sense,
 - result in damage to material property, or
 - impair or interfere with amenities or other legitimate uses of the environment;
- “prescribed statutory provision” means—
- Part 2 of the Food and Environment Protection Act 1985,
 - section 163 of the 1991 Act,
 - section 165 of the Water Industry Act 1991(14), or
 - any local statutory provision (within the meaning given in section 221 of the 1991 Act) or statutory order which expressly confers power to discharge effluent into water;
- “prohibition notice” means a notice served under paragraph 9 of Schedule 22;
- “proposed transferee” means the person to whom an operator proposes to transfer an environmental permit in whole or in part;
- “public participation provisions” means regulations 26, 29 and 59, and paragraphs 6 and 8 of Part 1 of Schedule 5;
- “public register” has the meaning given in regulation 46(1);
- “radioactive material” has the meaning given in paragraph 2 of Part 2 of Schedule 23;
- “radioactive substances activity” has the meaning given in paragraph 5 of Part 2 of Schedule 23;
- “radioactive waste” has the meaning given in paragraph 4 of Part 2 of Schedule 23;

(14) 1991 c. 56.

- “recovery” has the meaning given in paragraph 2 of Schedule 9;
- “register” and “registered”, in relation to an exempt facility, have the meaning given in paragraph 1 of Schedule 2;
- “regulated facility” has the meaning given in regulation 8;
- “regulator” means the authority on whom functions are conferred by regulation 32, or by a direction under regulation 33;
- “regulator-initiated variation” means the variation of an environmental permit on the initiative of the regulator under regulation 20(1);
- “relevant function” has the meaning given in regulation 9;
- “relevant territorial waters” has the meaning given in section 104(1) of the 1991 Act;
- “revocation notice” means a notice served under regulation 22(3);
- “rule-making authority” means—
- (a) in relation to a regulated facility for which a local authority is the regulator, the appropriate authority, and
 - (b) in relation to any other regulated facility, the Agency;
- “SED activity” means an activity falling within Section 7 of Part 2 of Schedule 1;
- “SED installation” has the meaning given in Schedule 14;
- “sewage effluent” has the meaning given in section 221 of the 1991 Act;
- “sewer” has the same meaning as in the 1991 Act;
- “standard facility” means a regulated facility described in standard rules published under regulation 26(5);
- “stand-alone groundwater activity” means a groundwater activity that is not carried on as part of the operation of a regulated facility of another class;
- “stand-alone water discharge activity” means a water discharge activity that is not carried on as part of the operation of a regulated facility of another class;
- “statutory order” means any order, byelaw, scheme or award made under any enactment, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;
- “suspension notice” means a notice served under regulation 37;
- “trade effluent” has the meaning given in section 221 of the 1991 Act;
- “undertaking”, except in relation to a radioactive substances activity, has the same meaning as in the Waste Framework Directive;
- “vessel”, except in Schedule 1, Part 2, Chapter 2, Section 2.2 and in Schedule 23, Part 2, paragraph 7, has the same meaning as in the 1991 Act;
- “waste”, except where otherwise defined, means anything that—
- (a) is waste for the purposes of the Waste Framework Directive, and
 - (b) is not excluded from the scope of that Directive by Article 2(1) of that Directive;
- “waste battery or accumulator” has the meaning given in Article 3(7) of the Batteries Directive, but does not include any waste which is excluded from the scope of that Directive by Article 2(2);
- “waste mobile plant” means plant that is—
- (a) designed to move or be moved whether on roads or other land,
 - (b) used to carry on a waste operation, and

- (c) not an installation, Part A mobile plant or Part B mobile plant;
“waste oil” means mineral-based lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, mineral lubricating oil, oil for turbines and hydraulic oil;
“waste operation” means recovery or disposal of waste;
“water discharge activity” has the meaning given in paragraph 3 of Schedule 21;
“WEEE” has the meaning given in Article 3(b) of the WEEE Directive; and
“working day” means a day other than—
 - (a) a Saturday or a Sunday,
 - (b) Good Friday or Christmas Day, or
 - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(15).
- (2) For the purpose of calculating a period of time from one event to another event, that period—
 - (a) starts on the day on which the first event occurs; and
 - (b) ends on the day on which the second event occurs.
- (3) In these Regulations, a power to give a direction includes a power to vary or revoke it.