

## SCHEDULE 2

Regulation 14(2)

### DISCHARGE CONSENTS FOR THE AGENCY

#### **Application for consent**

1.—(1) An application by the Agency for a consent, for the purposes of section 88(1)(a) of the Water Resources Act 1991, for any discharges shall be made to the Secretary of State in writing accompanied by such information as he may require; and shall be advertised by the Agency in accordance with sub-paragraphs (2) and (3) below.

(2) Notice of the application shall be published within the period of 28 days beginning with the date on which the application is received—

- (a) in one or more newspapers circulating in—
  - (i) the locality in which the proposed discharges are to be made; and
  - (ii) the locality in which the controlled waters likely to be affected by the proposed discharges are situated; and
- (b) in the London Gazette.

(3) The notice shall—

- (a) state that the application is made by the Agency;
- (b) specify where the discharges are proposed to be made;
- (c) describe briefly the nature of the proposed discharges;
- (d) state where the register containing information about the application may be inspected, the times at which the register is open for inspection and that the register may be inspected free of charge; and
- (e) explain that any person may make representations in writing to the Secretary of State, specify when the period allowed for making representations ends and give the address of the Secretary of State to which representations are to be sent.

(4) The Secretary of State may give the Agency notice requiring it to provide him with such further information of any description specified in the notice as he may require for the purpose of determining the application.

(5) An application made in accordance with this paragraph which relates to proposed discharges at two or more places may be treated by the Secretary of State as separate applications for consents for discharges at each of those places.

#### **Consultation in connection with applications**

2.—(1) The Agency shall, within the period of 28 days beginning with the date on which any application under paragraph 1 above is made, give notice of the application, together with a copy of the application, to—

- (a) every local authority or water undertaker within whose area any of the proposed discharges are to be made;
- (b) the Minister if any of the proposed discharges are to be made into coastal or relevant territorial waters, or waters outside the seaward limits of relevant territorial waters, which are in or adjacent to England;
- (c) the harbour authority within the meaning of section 57(1) of the Harbours Act 1964 if any of the proposed discharges are to be made into a harbour managed by the authority; and

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- (d) the local fisheries committee, if any of the proposed discharges are to be made into relevant territorial waters or coastal waters within the sea fisheries district of that committee.
- (2) Any representations made by any persons within the period allowed under sub-paragraph (3) below and not withdrawn shall be considered by the Secretary of State in determining the application.
- (3) The period allowed for making representations is—
  - (a) in the case of persons given notice of the application under sub-paragraph (1) above, the period of six weeks beginning with the date on which the notice was given under that sub-paragraph; and
  - (b) in the case of other persons, the period of six weeks beginning with the last date on which the making of the application was advertised under paragraph 1(2) above.

### **Consideration and determination of applications**

3.—(1) On an application under paragraph 1 above the Secretary of State shall be under a duty, if the requirements of that paragraph and paragraph 2 above are complied with, to consider whether to give the consent applied for, either unconditionally or subject to conditions, or to refuse it.

(2) The conditions subject to which a consent may be given under this paragraph shall be such conditions as the Secretary of State may think fit and, in particular, may include conditions—

- (a) as to the places at which the discharges to which the consent relates may be made and as to the design and construction of any outlets for the discharges;
- (b) as to the nature, origin, composition, temperature, volume and rate of the discharges and as to the periods during which the discharges may be made;
- (c) as to the steps to be taken, in relation to the discharges or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising the polluting effects of the discharges on any controlled waters;
- (d) as to the provision of facilities for taking samples of the matter discharged and, in particular, as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;
- (e) as to the provision, maintenance and testing of meters for measuring or recording the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;
- (f) as to the keeping of records of the nature, origin, composition, temperature, volume and rate of the discharges and, in particular, of records of readings of meters and other recording apparatus provided in accordance with any other condition attached to the consent; and
- (g) as to the making of returns and the giving of other information to the Secretary of State about the nature, origin, composition, temperature, volume and rate of the discharges;

and it is hereby declared that a consent may be given under this paragraph subject to different conditions in respect of different periods.

(3) Before determining an application, the Secretary of State may, and shall, if the Agency request him to do so—

- (a) cause a local inquiry to be held with respect to the application; or
- (b) afford the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

### **Revocation of consents and alteration and imposition of conditions**

4.—(1) The Secretary of State may from time to time review any consent given under paragraph 3 above and the conditions (if any) to which the consent is subject.

(2) Where the Secretary of State has reviewed a consent under this paragraph, he may by a notice served on the Agency—

- (a) revoke the consent;
- (b) make modifications of the conditions of the consent; or
- (c) in the case of an unconditional consent, provide that it shall be subject to such conditions as may be specified in the notice.

### **Applications for variation**

5.—(1) The Agency may make an application in writing to the Secretary of State for the variation of a consent given under paragraph 3 above; and any such application shall be accompanied by such information as the Secretary of State may require.

(2) The provisions of paragraphs 1 to 3 above shall apply (with the necessary modifications) to applications under sub-paragraph (1) above, and to the variation of consents in pursuance of such applications, as they apply to applications for, and the grant of, consents.

### **Transfer of consents**

6.—(1) A consent under paragraph 3 may be transferred by the Agency to a person who proposes to carry on making the discharges in place of the Agency.

(2) A consent under paragraph 3 above which is transferred to a person under this paragraph shall have effect on and after the date of the transfer as if it had been granted to that person under paragraph 3 of Schedule 10(1) to the Water Resources Act 1991, subject to such modifications as the Agency may specify in writing.

(3) Where a consent under paragraph 3 above is transferred under sub-paragraph (1) above, the Agency shall give notice of that fact to the Secretary of State.

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(1) Substituted by paragraph 183 of Schedule 22 to the Environment Act 1995.