
STATUTORY INSTRUMENTS

2016 No. 1154

**ENVIRONMENTAL PROTECTION,
ENGLAND AND WALES**

**The Environmental Permitting
(England and Wales) Regulations 2016**

Made - - - - 11th December 2016

Coming into force in accordance with regulation 1(1)

The Secretary of State and the Welsh Ministers make these Regulations in exercise of the powers conferred by—

- (a) sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999 (“the 1999 Act”)(1);
- (b) sections 61 and 90 of, and Schedule 8 to, the Water Act 2014 (“the 2014 Act”)(2); and
- (c) paragraph 1A of Schedule 2 to the European Communities Act 1972(3).

The Secretary of State also makes these Regulations in exercise of the powers conferred by section 62 of the Regulatory Enforcement and Sanctions Act 2008 (“the 2008 Act”)(4).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(5) and it appears to the Secretary of State and the Welsh Ministers that it is expedient for the reference to Commission [Decision 2000/532/EC](#)(6) mentioned in paragraph 1(1) of Chapter 1 of Part 1 of Schedule 3 to these Regulations to be construed as a reference to that instrument as amended from time to time.

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- (1) [1999 c. 24](#); section 2 was amended by section 62(13) of the Water Act 2014 ([c. 21](#)) and by [S.I. 2013/755 \(W. 90\)](#). Schedule 1 has been amended as follows: paragraphs 3 and 20 were amended by [S.I. 2011/1043](#); paragraph 9A was inserted by, and paragraph 24 amended by, [S.I. 2005/925](#) and paragraph 9A was further amended by [S.I. 2012/2788](#); paragraph 21A was inserted by section 38 of the Waste and Emissions Trading Act 2003 ([c. 33](#)), and paragraph 25 was amended by section 105(1) of the Clean Neighbourhoods and Environment Act 2005 ([c. 16](#)) and by [S.I. 2015/664](#). Functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales, except in relation to offshore oil and gas exploration and exploitation, by virtue of article 3(1) of the National Assembly for Wales (Transfer of Functions) Order 2005 ([S.I. 2005/1958](#)). But this was subject to article 3(2), which provided that, so far as any of those functions are exercisable by the Secretary of State in relation to a cross-border body but which, by their nature, are not functions which can be specifically exercised in relation to Wales, such functions are exercisable by the Assembly in relation to that body concurrently with the Secretary of State. Functions of the National Assembly for Wales were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ([c. 32](#)).
 - (2) [2014 c. 21](#). Section 61(9) contains the definition of “the Minister”.
 - (3) [1972 c. 68](#); paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 ([c.51](#)) and was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 ([c. 7](#)) and by [S.I. 2007/1388](#).
 - (4) [2008 c. 13](#).
 - (5) Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 and by Part 1 of the Schedule to the European Union (Amendment) Act 2008.
 - (6) OJ No L 226, 6.9.2000, p 3, as last amended by Commission [Decision 2014/955/EU](#) (OJ No L 370, 30.12.2014, p 44).

In accordance with section 2(4) of the 1999 Act and section 61(5) of the 2014 Act, the Secretary of State and the Welsh Ministers have consulted—

- (a) the Environment Agency,
- (b) the Natural Resources Body for Wales,
- (c) 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
- (d) such other bodies or persons as they consider appropriate.

In accordance with section 61(3) of the 2014 Act, the Secretary of State and the Welsh Ministers have had regard to the desirability of reducing burdens by ensuring that so far as is reasonably practicable any system established by regulations under that section is combined with, or is consistent with, systems for regulating activities or other matters that cause pollution.

In accordance with section 66 of the 2008 Act, the Secretary of State is satisfied that the Environment Agency will act in accordance with the principles referred to in section 5(2) of that Act in exercising the powers in Schedule 26 to these Regulations to impose a civil sanction in relation to an offence.

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) and (e) of the 1999 Act⁽⁷⁾ and sections 62(7) and (8) and 90(3) of the 2014 Act.

(7) The reference in section 2(8) to approval by each House of Parliament has effect in relation to exercise of functions by the Welsh Ministers as if it were a reference to approval by the National Assembly for Wales by virtue of paragraph 33 of Schedule 11 to the Government of Wales Act 2006.