
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide a consolidated system of environmental permitting in England and Wales. They replace the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675).

These Regulations transpose provisions of 15 Directives which impose obligations required to be delivered through permits or capable of being delivered through permits.

Part 1 contains general provisions, in particular interpretation.

Regulation 8 defines the term “regulated facility” and regulation 12 requires every regulated facility to be operated under the authority of an environmental permit.

The combined classes of “regulated facility” include (unless they are exempt or excluded) every installation, mobile plant, waste operation, mining waste operation, radioactive substances activity, water discharge activity, groundwater activity and flood risk activities, whether or not carried on as part of the operation of another regulated facility. Those terms are defined in regulation 2(1) and in Schedules 1, 9, 20 to 23 and 25.

The term “exempt facility” is defined in regulation 5. Schedule 2 sets out the procedures in relation to exempt facilities, including registration requirements.

Part 2 sets out the procedures in relation to environmental permits.

Regulations 13 (grant of a permit), 20 (variation of a permit), 21 (transfer of a permit) and 25 (surrender of a permit), with Part 1 of Schedule 5, regulate permit applications. Regulation 20 also provides for variation of a permit on the initiative of the regulator. Regulation 24 allows certain permits to be surrendered by notification. Regulation 15 and Part 2 of Schedule 5 provide for compensation where a permit condition requires interference with the property rights of a person other than the operator. Regulation 17 allows more than one regulated facility on the same site, or with the same operator, to be authorised by the same permit in some circumstances. Regulation 18 allows for the consolidation of separate permits. Regulations 22 and 23 provide for the revocation of a permit on the initiative of the regulator. Regulations 26 to 30 provide for the preparation of standard rules applying to a description of regulated facility, which may be incorporated into a permit at the request of an operator. Regulation 31 and Schedule 6 provide for appeals.

Part 3 provide for the discharge of functions by the regulator in relation to permits. Regulation 32 sets the regulator for different classes or description of regulated facility and regulation 33 allows for a change of regulator at the direction of the Secretary of State or the Welsh Ministers. Regulation 34 requires the regulator periodically to review permits and to inspect regulated facilities. Regulation 35 and Schedules 7 to 25 require the regulator to exercise its functions so as to comply with the duties set out in those Schedules. Each Schedule requires the regulator to ensure compliance with a specified Directive or Directives (where applicable) when exercising its functions in relation to a regulated facility falling within the Schedule’s scope.

Part 4 contains enforcement-related provisions. Regulations 36 and 37 provide for enforcement notices (requiring compliance with a permit) and suspension notices (suspending the authorisation of the operation of a regulated facility). Regulation 38 contains offences and regulation 40 provides for defences. Regulation 39 sets the penalties on conviction and provides for enforcement undertakings.

Part 5 make provision for public registers to be kept by the regulator, including information which may be kept off the register in the interests of national security or because it is confidential in nature

Status: This is the original version (as it was originally made).

Part 6 confers powers on the regulator, Secretary of State and Welsh Ministers and imposes duties on the regulator. This Part includes power for the regulator to prevent or remedy pollution and to recover associated costs from the operator (regulation 57), a requirement on the appropriate agency to publish a public participation statement (regulation 60), and power for the Secretary of State or Welsh Ministers to make schemes setting fees and charges in relation to local authority functions under these Regulations.

Part 7 contains miscellaneous provisions. By virtue of regulation 1(2), the provisions in Schedules 28 and 29 (revocations and consequential amendments) extend to England and Wales only.

Regulation 80 requires the Secretary of State to review the operation and effect of these Regulations before the end of April 2019 and every 5 years thereafter and lay a report before Parliament.

Full impact assessments of the effect that the Environmental Permitting (England and Wales) Regulations 2010 and its amending instruments where appropriate will have on the costs of business and the voluntary sector are available from the Air Quality and Industrial Emissions Team at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or at www.legislation.gov.uk. No separate impact assessment has been produced for this instrument. An updated transposition note is submitted with the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.