
STATUTORY INSTRUMENTS

2016 No. 1154

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

PART 1

General

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Environmental Permitting (England and Wales) Regulations 2016 and come into force 21 days after the day on which these Regulations are made.

(2) These Regulations extend to England and Wales only.

(3) They apply in relation to—

(a) England and the sea adjacent to England out as far as the seaward boundary of the territorial sea, and

(b) Wales, within the meaning given by section 158 of the Government of Wales Act 2006⁽¹⁾.

(4) In paragraph (3)(a), the sea adjacent to England is so much of the sea adjacent to Great Britain as—

(a) is not the sea adjacent to Scotland, and

(b) does not form part of Wales.

(5) In paragraph (4)(a), the sea adjacent to Scotland has the same meaning as the internal waters and territorial sea of the United Kingdom adjacent to Scotland has by virtue of section 126(2) of the Scotland Act 1998⁽²⁾.

Interpretation: general

2.—(1) In these Regulations—

“the 1980 Act” means the Highways Act 1980⁽³⁾;

“the 1990 Act” means the Environmental Protection Act 1990⁽⁴⁾;

“the 1991 Act” means the Water Resources Act 1991⁽⁵⁾;

“the 1993 Act” means the Radioactive Substances Act 1993⁽⁶⁾;

(1) [2006 c.32](#). Section 158(1) defines “Wales” as including the sea adjacent to Wales out as far as the seaward boundary of the territorial sea. Section 158(3) makes provision for the determination of any boundary between waters which are to be treated as parts of the sea adjacent to Wales and those which are not. The boundary between the sea adjacent to Wales and that adjacent to England is partly determined by article 6 of, and Schedule 3 to, [S.I. 1999/672](#). By virtue of paragraph 26 of Schedule 11 to the Government of Wales Act 2006, [S.I. 1999/672](#) continues to have effect.

(2) [1998 c. 46](#). The boundaries between waters which are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not are set out in [S.I. 1999/1126](#).

(3) [1980 c. 66](#).

(4) [1990 c. 43](#).

(5) [1991 c. 57](#).

(6) [1993 c. 12](#).

“the 1995 Act” means the Environment Act 1995⁽⁷⁾;

“the 2007 Regulations” means the Environmental Permitting (England and Wales) Regulations 2007⁽⁸⁾;

“the 2010 Regulations” means the Environmental Permitting (England and Wales) Regulations 2010⁽⁹⁾;

“the Agency” means the Environment Agency;

“agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947⁽¹⁰⁾;

“appropriate agency” means—

- (a) in relation to England, the Agency, and
- (b) in relation to Wales, the NRBW,

and references to the “area” of an appropriate agency are to be construed accordingly;

“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;

“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;

“culvert” has the meaning given in paragraph 3(3) of Part 1 of Schedule 25;

“disposal”—

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

“drainage” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25;

“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 a solvent emission activity, the direct or indirect release of substances from individual or diffuse sources in the regulated facility into the air;

(7) 1995 c. 25.

(8) S.I. 2007/3538, amended by S.I. 2009/1307, 1799, 3381, 2010/22, 490, 675, 2011/988 and 2012/811.

(9) S.I. 2010/675, amended by paragraph 30 of Part 2 of Schedule 12 to the Energy Act 2013 (c. 32) and by S.I. 2010/676, 2172, 2011/600 (W. 88), 988, 2043, 2933, 2012/630, 811, 2013/390, 755 (W. 90), 766, 2952, 2014/255, 517 (W. 60), 2852, 2015/324, 664, 918, 934, 1360, 1417 (W. 141), 1756, 1973, 2016/58 (W. 28), 149, 475, 691 (W. 189) and 738.

(10) 1947 c. 48.

- (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;
- (g) in relation to a radioactive substances activity, the direct or indirect release of radioactive material or radioactive waste;
- (h) in relation to a small waste incineration plant, the direct or indirect release of substances from individual or diffuse sources in the regulated facility into the air or water;

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

“enforcement undertaking” has the meaning given in paragraph 1(3) of Schedule 26;

“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 flood risk activity” has the meaning given in paragraph 4 of Part 1 of Schedule 25;

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

(a) that—

- (i) requires a marine licence under the Marine and Coastal Access Act 2009⁽¹¹⁾, or
- (ii) does not require such a licence by virtue of any provision made by or under section 74, 75⁽¹²⁾ or 77 of that Act and does not involve the dismantling of a ship that is waste, or

(b) that relates to waste described in regulation 3(2) of the Controlled Waste (England and Wales) Regulations 2012⁽¹³⁾;

“exempt facility” has the meaning given in regulation 5;

“exempt flood risk activity” 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 authority” has the meaning given in paragraph 2 of Schedule 2;

“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);

“flood defence structure” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25;

“flood risk activity” has the meaning given in paragraph 3 of Part 1 of Schedule 25;

⁽¹¹⁾ 2009 c. 23; Part 4 of that Act concerns marine licensing.

⁽¹²⁾ Section 75 was amended by S.I. 2011/405 and 2016/738.

⁽¹³⁾ S.I. 2012/811, to which there are amendments not relevant to these Regulations.

“flood risk activity emergency works notice” means a notice served under paragraph 7 of Part 1 of Schedule 25;

“flood risk activity notice of intent” means a notice served under paragraph 9(2) of Part 1 of Schedule 25;

“flood risk activity remediation notice” means a notice served under paragraph 8 of Part 1 of Schedule 25;

“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”, subject to paragraph (7)—

(a) in relation to England, has the meaning given in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005⁽¹⁴⁾;

(b) in relation to Wales, has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005⁽¹⁵⁾;

“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⁽¹⁶⁾;

“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(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;

“main river” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25;

“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 either of the following—

(a) Part B mobile plant;

(b) waste mobile plant;

“mobile radioactive apparatus” has the meaning given in paragraph 1 of Part 2 of Schedule 23;

“the NRBW” means the Natural Resources Body for Wales;

“net rated thermal input” has the meaning given in paragraph 1(1) of Part 1 of Schedule 1;

“non-hazardous waste”, subject to paragraph (7), means waste which is not hazardous waste;

“non-tidal main river” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25;

(14) S.I. 2005/894, to which there are amendments not relevant to these Regulations.

(15) S.I. 2005/1806 (W. 138), amended by S.I. 2015/1417 (W. 141); there are other amending instruments but none is relevant.

(16) Section 100 was amended by paragraph 21 of Schedule 4 to the Local Government Act 1985 (c. 51), paragraph 62 of Schedule 25 to the Water Act 1989 (c. 15), paragraph 36(1) of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60) and paragraph 9 of Schedule 7 to the Local Government (Wales) Act 1994 (c. 19).

“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(1) activity” means an activity falling within Part A(1) of any Section in Part 2 of Schedule 1;

“Part A(2) activity” means an activity falling within Part A(2) of any Section in Part 2 of Schedule 1;

“Part A installation” means a Part A(1) installation or a Part A(2) installation;

“Part A(1) installation” means an installation where a Part A(1) activity is carried on either alone or in combination with any or all of the following—

- (a) a Part A(2) activity;
- (b) a Part B activity;
- (c) the operation of a small waste incineration plant;
- (d) a solvent emission activity;

“Part A(2) installation” means an installation where a Part A(2) activity is carried on either alone or in combination with any or all of the following—

- (a) a Part B activity;
- (b) the operation of a small waste incineration plant;
- (c) a solvent emission activity;

“Part B activity” means an activity falling within Part B of any Section in Part 2 of Schedule 1;

“Part B installation” means, subject to Sections 2.2, 5.1 and 6.4 in Part 2 of Schedule 1, an installation, not being a Part A installation, where a Part B activity is carried on either alone or in combination with either or both of the following—

- (a) the operation of a small waste incineration plant;
- (b) a solvent emission activity;

“Part B mobile plant” means plant that is designed to move or be moved whether on roads or other land and that is used to carry on a Part B activity;

“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—

- (a) be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,
- (b) result in damage to material property, or
- (c) 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—

- (a) be harmful to human health or the quality of the environment,
- (b) cause offence to a human sense,
- (c) result in damage to material property, or
- (d) impair or interfere with amenities or other legitimate uses of the environment;

“prescribed statutory provision” means—

- (a) Part 4 of the Marine and Coastal Access Act 2009⁽¹⁷⁾,
 - (b) section 163 of the 1991 Act⁽¹⁸⁾,
 - (c) section 165 of the Water Industry Act 1991⁽¹⁹⁾, or
 - (d) 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 or a regulator proposes to transfer an environmental permit in whole or in part;
- “public participation provisions” means regulations 26, 29 and 60, 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 3 of Part 2 of Schedule 23;
- “radioactive substances activity” has the meaning given in paragraph 11 of Part 2 of Schedule 23;
- “radioactive substances exemption” means an exemption under Part 6 of Schedule 23 from the requirement for an environmental permit in respect of a radioactive substances activity;
- “radioactive waste” has the meaning given in paragraph 3 of Part 2 of Schedule 23;
- “recovery” has the meaning given in paragraph 2 of Part 1 of Schedule 9;
- “register” and “registered”, in relation to an exempt facility, have the meanings given in paragraph 1(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;
- “remote defence” has the meaning given in paragraph 3(3) of Part 1 of Schedule 25;
- “revocation notice” means a notice served under regulation 22(3);
- “river control works” has the meaning given in paragraph 3(3) of Part 1 of Schedule 25;
- “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 appropriate agency;
- “sea defence” has the meaning given in paragraph 3(3) of Part 1 of Schedule 25;
- “sewage effluent” has the meaning given in section 221 of the 1991 Act;
- “sewer” has the same meaning as in the 1991 Act;

⁽¹⁷⁾ Part 4 was amended by section 76(2) of the Energy Act 2016 (c. 20) and by S.I. 2011/405, 1043, 1210, 2015/374, 664 and 2016/738. It is prospectively amended by sections 76 to 80 of the Environment (Wales) Act 2016 (anaw. 3) from a date to be appointed.

⁽¹⁸⁾ Section 163 was amended by S.I. 2003/1615 and 2013/755 (W. 90).

⁽¹⁹⁾ 1991 c. 56.

“small waste incineration plant” means a waste incineration plant or waste co-incineration plant with a capacity less than or equal to 10 tonnes per day for hazardous waste or 3 tonnes per hour for non-hazardous waste;

“solvent emission activity” means an activity to which Chapter V of the Industrial Emissions Directive applies;

“standard facility” means a regulated facility described in standard rules published under regulation 26(5);

“stand-alone flood risk activity” means a flood risk activity that is not carried on as part of the operation of a regulated facility of another class;

“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;

“suspension notice” means a notice served under regulation 37;

“tidal main river” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25;

“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 Section 2.2 of Chapter 2 of Part 2 of Schedule 1 and in paragraph 14 of Part 2 of Schedule 23, has the same meaning as in the 1991 Act;

“waste”, subject to paragraph (6), and except where otherwise defined—

- (a) in relation to Chapter 5 of Part 2 of Schedule 1 and Schedules 13 to 15, 17 and 19, means anything that—
 - (i) is waste within the meaning of Article 3(1) of the Waste Framework Directive, and
 - (ii) is not excluded from the scope of that Directive by Article 2(1)(d) of that Directive;
- (b) in any other case means anything that—
 - (i) is waste within the meaning of Article 3(1) of the Waste Framework Directive, and
 - (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;

“waste battery” and “accumulator” have the meaning given in Article 3(7) of the Batteries Directive, but do not include any waste which is excluded from the scope of that Directive by Article 2(2);

“waste co-incineration plant” means a stationary or mobile technical unit whose main purpose is the generation of energy or production of material products and which uses waste as a regular or additional fuel or in which waste is thermally treated for the purpose of disposal through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

“waste incineration plant” means a stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

“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 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;

“watercourse” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25;

“water discharge activity” has the meaning given in paragraph 3 of Schedule 21;

“WEEE” has the meaning given in Article 3(1)(e) of the WEEE Directive;

“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⁽²⁰⁾.

(2) In paragraph (1), “statutory order” means any order, byelaw, scheme or award made under any enactment, including an order or scheme confirmed by Parliament or the National Assembly for Wales, or brought into operation in accordance with special parliamentary procedure or special procedure in the Assembly.

(3) For the purpose of calculating a period of time from one event to another event, that period—

(a) starts at the beginning of the day on which the first event occurs, and

(b) ends at the end of the day on which the second event occurs.

(4) In these Regulations, a power to give a direction includes a power to vary or revoke it.

(5) Paragraph (6) applies where a person (“A”)—

(a) carries on a radioactive substances activity described in paragraph 11(2)(b) or (c) or (4) of Part 2 of Schedule 23 in respect of radioactive waste,

(b) is exempt under regulation 12(3) from the requirement for an environmental permit in respect of that activity and that waste (“the relevant exemption”), and

(c) the waste (“the applicable radioactive waste”) is—

(i) NORM waste (as that term is defined in paragraph 2 of Part 6 of Schedule 23), or

(ii) the waste described in the first, second or sixth row of column 1 of Table 6 in Part 6 of Schedule 23.

(6) Where this paragraph applies, for so long as the relevant exemption applies to A, the applicable radioactive waste must be treated for the purposes of these Regulations as if it were waste other than radioactive waste.

(7) In relation to an activity that falls within Chapter 5 of Part 2 of Schedule 1 or Schedule 13, hazardous waste means waste which displays any of the characteristics listed in Annex III to the Waste Framework Directive.

Interpretation: Directives

3. In these Regulations—

“the Asbestos Directive” means Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos⁽²¹⁾;

(20) 1971 c. 80.

(21) OJ No L 85, 28.3.1987, p 40, as last amended by Council Regulation (EC) No 807/2003 (OJ No L 122, 16.5.2003, p 36).

“the Basic Safety Standards Directive” means Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation(22);

“the Batteries Directive” means Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators(23);

“the End-of-Life Vehicles Directive” means Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles(24);

“the Energy Efficiency Directive” means Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency(25);

“the Groundwater Directive” means Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration(26);

“the HASS Directive” means Council Directive 2003/122/Euratom on the control of high-activity sealed radioactive sources and orphan sources(27);

“the Industrial Emissions Directive” means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)(28);

“the Landfill Directive” means Council Directive 1999/31/EC on the landfill of waste(29), as read with Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of, and Annex II to, Directive 1999/31/EC(30);

“the Mining Waste Directive” means Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries(31);

“PVR I” means European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(32);

“PVR II” means Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations(33);

“the Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste(34);

“the Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(35);

“the WEEE Directive” means Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE)(36).

(22) OJ No L 159, 29.6.1996, p 1, as corrected by a corrigendum (OJ No L 314, 4.12.1996, p 20). The Directive is prospectively repealed from 6th February 2018 by Council Directive 2013/59/Euratom (OJ No L 13, 17.1.2014, p 1).

(23) OJ No L 266, 26.9.2006, p 1, as last amended by Directive 2013/56/EU (OJ No L 329, 10.12.2013, p 5).

(24) OJ No L 269, 21.10.2000, p 34, as last amended by Commission Directive (EU) 2016/774 (OJ No L 128, 19.5.2016, p 4).

(25) OJ No L 315, 14.11.2012, p 1, as last amended by Council Directive 2013/12/EU (OJ No L 141, 28.5.2013, p 28).

(26) OJ No L 372, 27.12.2006, p 19, as last amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p 52).

(27) OJ No L 346, 31.12.2003, p 57. The Directive is prospectively repealed from 6th February 2018 by Council Directive 2013/59/Euratom (OJ No L 13, 17.1.2014, p 1).

(28) OJ No L 334, 17.12.2010, p 17, as corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

(29) OJ No L 182, 16.7.1999, p 1, as last amended by Council Directive 2011/97/EU (OJ No L 328, 10.12.2011, p 49).

(30) OJ No L 11, 16.1.2003, p 27.

(31) OJ No L 102, 11.4.2006, p 15, as last amended by Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p 14).

(32) OJ No L 365, 31.12.1994, p 24, as last amended by Regulation (EC) No 1137/2008 (OJ No L 311, 21.11.2008, p 1).

(33) OJ No L 285, 31.10.2009, p 36, as amended by Commission Directive 2014/99/EU (OJ No L 304, 23.10.2014, p 89).

(34) OJ No L 312, 22.11.2008, p 3, as last amended by Commission Directive (EU) 2015/1127 (OJ No L 184, 11.7.2015, p 13).

(35) OJ No L 327, 22.12.2000, p 1, as last amended by Commission Directive 2014/101/EU (OJ No L 311, 31.10.2014, p 32).

(36) OJ No L 197, 24.7.2012, p 38.

Exempt facilities and the application of section 33(1)(a) of the 1990 Act

4.—(1) Schedule 2 (exempt facilities: general) has effect.

(2) Schedule 3 (exempt facilities and waste operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions) has effect.

(3) Section 33(1)(a) of the 1990 Act⁽³⁷⁾—

- (a) does not apply to an operation which—
 - (i) falls within a description in Part 5 of Schedule 3, and
 - (ii) meets the conditions specified in that Part for that description, and
- (b) does not apply to extractive waste at any time before the requirement for an environmental permit under regulation 12 applies in respect of the deposit of that waste.

Interpretation: exempt facilities

5. In these Regulations—

“exempt facility” means—

- (a) an exempt waste operation,
- (b) an exempt water discharge activity,
- (c) an exempt groundwater activity, or
- (d) an exempt flood risk activity;

“exempt flood risk activity” means a flood risk activity that meets the requirements of paragraph 9 of Schedule 2;

“exempt groundwater activity” means—

- (a) a stand-alone groundwater activity that meets the requirements of—
 - (i) in relation to Wales only, paragraph 7 of Schedule 2;
 - (ii) in relation to England only, paragraph 8 of Schedule 2, or
- (b) a groundwater activity that—
 - (i) is a groundwater tracer test as defined in paragraph 1 of Part 3 of Schedule 3,
 - (ii) is also a radioactive substances activity by virtue of the using of radioactive material as a part of that test, and
 - (iii) meets the requirements of—
 - (aa) in relation to Wales only, paragraph 7 of Schedule 2;
 - (bb) in relation to England only, paragraph 8 of Schedule 2;

“exempt waste operation” means a waste operation—

- (a) that is not carried on at an installation, and
- (b) that meets the requirements of paragraph 4(1) of Schedule 2;

“exempt water discharge activity” means a stand-alone water discharge activity that meets the requirements of—

- (a) in relation to Wales only, paragraph 5 of Schedule 2;
- (b) in relation to England only, paragraph 6 of Schedule 2.

(37) Section 33(1)(a) was amended by [S.I. 2007/3538](#) and [2009/1799](#).

Interpretation: local authority

6.—(1) In these Regulations, “local authority” means—

- (a) in England outside Greater London—
 - (i) a district council,
 - (ii) where there is a county council but no district council, the county council, or
 - (iii) the Council of the Isles of Scilly;
- (b) in Greater London—
 - (i) the council of a London borough,
 - (ii) the Common Council of the City of London,
 - (iii) the Sub-Treasurer of the Inner Temple, or
 - (iv) the Under-Treasurer of the Middle Temple;
- (c) in Wales—
 - (i) a county council, or
 - (ii) a county borough council.

(2) Where a port health authority has been constituted for a port health district by an order under section 2 of the Public Health (Control of Disease) Act 1984⁽³⁸⁾ that authority is the local authority for the area covered by that district in relation to a Part B installation, a small waste incineration plant or a solvent emission activity.

Interpretation: operate a regulated facility and operator

7. In these Regulations—

“operate a regulated facility” means—

- (a) operate an installation or mobile plant, or
- (b) carry on a waste operation, mining waste operation, radioactive substances activity, water discharge activity, groundwater activity, small waste incineration plant operation, solvent emission activity or flood risk activity;

“operator”, in relation to a regulated facility, means—

- (a) the person who has control over the operation of the regulated facility,
- (b) if the regulated facility has not yet been put into operation, the person who will have control over the regulated facility when it is put into operation, or
- (c) if a regulated facility authorised by an environmental permit ceases to be in operation, the person who holds the environmental permit.

Interpretation: regulated facility and class of regulated facility

8.—(1) In these Regulations, “regulated facility” means any of the following—

- (a) an installation;
- (b) mobile plant;
- (c) a waste operation;
- (d) a mining waste operation;
- (e) a radioactive substances activity;

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- (f) a water discharge activity;
 - (g) a groundwater activity;
 - (h) a small waste incineration plant;
 - (i) a solvent emission activity;
 - (j) a flood risk activity.
- (2) But the following are not regulated facilities—
- (a) an exempt facility;
 - (b) an excluded waste operation;
 - (c) the disposal or recovery of household waste from a domestic property within the curtilage of that property by a person other than an establishment or undertaking;
 - (d) an excluded flood risk activity.
- (3) In these Regulations, a reference to a class of regulated facility is a reference to a class in paragraph (1).
- (4) A regulated facility of any of the following classes may be carried on as part of the operation of a regulated facility of another class—
- (a) a waste operation;
 - (b) a mining waste operation;
 - (c) a water discharge activity;
 - (d) a groundwater activity;
 - (e) a small waste incineration plant;
 - (f) a solvent emission activity;
 - (g) a flood risk activity.

Interpretation: relevant function

9. In these Regulations, “relevant function” means any of the following functions—
- (a) determining an application—
 - (i) for the grant of an environmental permit under regulation 13(1);
 - (ii) for the variation of an environmental permit under regulation 20(1);
 - (iii) for the transfer of an environmental permit in whole or in part under regulation 21(1);
 - (iv) for the surrender of an environmental permit in whole or in part under regulation 25(2);
 - (b) varying an environmental permit—
 - (i) on the initiative of the regulator under regulation 20(1);
 - (ii) in relation to a transfer in whole or in part under regulation 21(1) or (3);
 - (iii) in relation to a partial revocation under regulation 22(1);
 - (iv) in relation to a partial surrender under regulation 24(2) or 25(2);
 - (c) revoking an environmental permit in whole or in part under regulation 22(1);
 - (d) exercising the power to serve a notice under Schedule 21 or 25 requiring a person to hold an environmental permit;
 - (e) exercising the following powers or duty—
 - (i) any power in relation to standard rules in Chapter 4 of Part 2;

- (ii) the duty to vary an environmental permit after revocation of standard rules in regulation 30(3);
- (f) exercising any of the following powers relating to enforcement—
 - (i) the power to serve an enforcement notice;
 - (ii) the power to serve a suspension notice;
 - (iii) the power to serve a prohibition notice;
 - (iv) the power to serve a landfill closure notice;
 - (v) the power to serve a mining waste facility closure notice;
- (g) exercising the power to serve a flood risk activity emergency works notice, a flood risk activity notice of intent or a flood risk activity remediation notice;
- (h) exercising the power to take steps under paragraph 9(1) of Part 1 of Schedule 25.

Giving notices, notifications and directions, and the submission of forms

10.—(1) In this regulation, “instrument” means a notice, notification, certificate, direction or form under these Regulations.

- (2) An instrument must be in writing.
- (3) An instrument may be served on or given to a person by—
 - (a) personal delivery,
 - (b) leaving it at the person’s proper address, or
 - (c) sending it by post or electronic means to the person’s proper address.
- (4) In the case of a body corporate, an instrument may be served on or given to a director of that body or the secretary or clerk.
- (5) In the case of a partnership, an instrument may be served on or given to a partner or a person having control or management of the partnership business.
- (6) In paragraph (3), “proper address” means—
 - (a) in the case of a body corporate, a director of the body or the secretary or clerk—
 - (i) the registered or principal office of that body, or
 - (ii) the email address of the director, secretary or clerk;
 - (b) in the case of a partnership or a partner or person having control or management of the partnership business—
 - (i) the principal office of the partnership, or
 - (ii) the email address of a partner or a person having that control or management;
 - (c) in any other case, a person’s last known address, which includes an email address.
- (7) For the purposes of paragraph (6), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.
- (8) A form provided by the regulator which specifies an electronic address for submission may be submitted electronically to that address.
- (9) A form provided by the regulator for completion and submission through a website may be submitted through that site.