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STATUTORY INSTRUMENTS

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**2016 No. 1154**

The Environmental Permitting  
(England and Wales) Regulations 2016

PART 3

Discharge of functions in relation to a regulated facility

**Discharge of functions**

- 32.**—(1) Subject to paragraphs (2) to (7), and paragraph 12 of Part 2 of Schedule 23—
- (a) functions in relation to a regulated facility that is or will be operated in England are exercisable by the Agency;
  - (b) functions in relation to a regulated facility that is or will be operated in Wales are exercisable by the NRBW.
- (2) Subject to paragraph (4), in relation to waste mobile plant—
- (a) if the principal place of business of the operator is in England, functions are exercisable by the Agency;
  - (b) if the principal place of business of the operator is in Wales, functions are exercisable by the NRBW;
  - (c) if the principal place of business of the operator is not in England or in Wales, functions are exercisable by—
    - (i) the appropriate agency that granted the environmental permit authorising the operation of that waste mobile plant, or
    - (ii) if no permit has been granted, the appropriate agency in whose area waste mobile plant is first intended to be operated.
- (3) Paragraph (4) applies—
- (a) where by virtue of paragraph (2) functions in relation to waste mobile plant are exercisable by the Agency, and that waste mobile plant is operated at a site in Wales, or
  - (b) where by virtue of paragraph (2) functions in relation to waste mobile plant are exercisable by the NRBW, and that waste mobile plant is operated at a site in England.
- (4) Where this paragraph applies, functions under regulations 36, 37 and 57 and paragraph 9 of Schedule 23 are exercisable in relation to the waste mobile plant referred to in paragraph (3) by both the Agency and the NRBW.
- (5) Functions in relation to a regulated facility of the following description or class are exercisable by the local authority in whose area the regulated facility is or will be operated—
- (a) a Part A(2) installation;
  - (b) a Part B installation or Part B mobile plant, but not in respect of any of the following regulated facilities carried on at the installation or by means of mobile plant—
    - (i) a waste operation that is not itself a Part B activity;

- (ii) a mining waste operation;
  - (iii) a water discharge activity;
  - (iv) a groundwater activity;
  - (c) a small waste incineration plant;
  - (d) a solvent emission activity.
- (6) If the principal place of business of the operator of Part B mobile plant is in England or in Wales, functions in relation to that regulated facility are exercisable by the local authority in whose area the place of business is.
- (7) If the principal place of business of the operator of Part B mobile plant is not in England or in Wales, functions in relation to that regulated facility are exercisable by—
- (a) the local authority which granted the environmental permit authorising the operation of the regulated facility, or
  - (b) if no permit has been granted, the local authority in whose area the regulated facility is first operated, or is intended to be first operated.
- (8) In this regulation, “functions” includes relevant functions.

#### **Direction to a regulator: discharge of functions by a different regulator**

- 33.**—(1) An appropriate authority may direct—
- (a) the appropriate agency to exercise such local authority functions as are, and for such period as is, specified in the direction, or
  - (b) a local authority to exercise such appropriate agency functions as are, and for such period as is, specified in the direction.
- (2) A direction under this regulation may include such saving and transitional provisions as the appropriate authority considers necessary or expedient.
- (3) A direction under this regulation may be made in respect of a description or class of regulated facility or a specific regulated facility.
- (4) A direction under paragraph (1)(b) may only be made in respect of—
- (a) an installation, but not in respect of a mining waste operation carried on at an installation, or
  - (b) mobile plant.
- (5) When giving a direction under this regulation the appropriate authority must notify the persons in paragraph (6) of the direction and publish the direction on its website.
- (6) The persons are—
- (a) where the appropriate authority is the Secretary of State, the Agency,
  - (b) where the appropriate authority is the Welsh Ministers, the NRBW, and
  - (c) any local authority or other person whom the appropriate authority considers is affected by the direction.
- (7) An appropriate authority must not comply with a duty under paragraph (5) in a case where the authority considers that to do so would be contrary to the interests of national security.
- (8) In paragraph (1) (ignoring any direction under this regulation)—
- “appropriate agency functions” means functions which are exercisable by the appropriate agency by virtue of regulation 32 or paragraph 2 of Schedule 2;

“local authority functions” means functions which are exercisable by a local authority by virtue of regulation 32 or paragraph 2 of Schedule 2.

**Review of environmental permits and inspection of regulated facilities**

- 34.—(1) The regulator must periodically review environmental permits.
- (2) The regulator must make appropriate periodic inspections of regulated facilities.

**Specific provisions applying to environmental permits**

- 35.—(1) Schedules 7 to 25 have effect.
- (2) To the extent that the operation of a regulated facility of a description or class mentioned in any of Schedules 7 to 25 requires an environmental permit, the requirements of that Schedule apply in relation to that regulated facility.