

SCHEDULE 2

Regulation 4

Exempt facilities: general

Interpretation: general

1.—(1) In this Schedule—

“occupier” means a person who is or has been the occupier of the land on which an exempt water discharge activity or exempt groundwater activity is carried on;

“operator” means the person carrying on a water discharge activity or groundwater activity;

“register” means the register which the exemption registration authority is required to establish and maintain under paragraph 11(1);

“registered” means—

(a) in relation to a waste operation, that the relevant particulars appear on the register during a valid registration period,

(b) in relation to a water discharge activity, groundwater activity or flood risk activity, that the relevant particulars appear on the register,

and “registration” is to be construed accordingly;

“relevant particulars” has the meaning given in paragraph 10(4);

“valid registration period”, for an exempt waste operation, means the period of validity of a registration referred to in paragraph 15(1), as read with paragraph 15(2);

“WEEE operation” means a waste operation falling within a description in paragraph T11.

(2) In this Schedule, in relation to an exempt waste operation, a reference to any of paragraphs U1 to U16, T1 to T32, D1 to D8 or S1 to S3 has the meaning given in paragraph 1(8) of Chapter 1 of Part 1 of Schedule 3.

Interpretation: exemption registration authority and exemption authority

2.—(1) Subject to sub-paragraph (2), the exemption registration authority in relation to a waste operation falling within a description in Part 1 of Schedule 3 is the appropriate agency.

(2) The exemption registration authority in relation to a waste operation falling within a description in paragraph T3 or T7 is—

(a) for a waste operation carried on by waste mobile plant by an establishment or undertaking whose principal place of business is in England and Wales, the local authority in whose area it has its principal place of business;

(b) for a waste operation carried on by waste mobile plant by an establishment or undertaking whose principal place of business is not in England and Wales, the local authority in whose area the operation is first carried on;

(c) for a waste operation not carried on by waste mobile plant, the local authority in whose area the operation is carried on.

(3) In relation to Wales only, the NRBW is the exemption registration authority in relation to—

(a) a water discharge activity falling within a description in Part 2 of Schedule 3, and

(b) a groundwater activity falling within a description in Part 3 of Schedule 3.

(4) In relation to England only—

(a) the Agency is the exemption registration authority in relation to—

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- (i) a water discharge activity falling within a description in paragraph 1 of Part 2 of Schedule 3, and
 - (ii) a groundwater activity falling within a description in paragraph 2 or 5 of Part 3 of Schedule 3;
- (b) the Agency is the exemption authority in relation to—
- (i) a water discharge activity falling within a description in paragraph 3 of Part 2 of Schedule 3, and
 - (ii) a groundwater activity falling within a description in paragraph 4 of Part 3 of Schedule 3.
- (5) The exemption registration authority in relation to a flood risk activity falling within a description in Part 4 of Schedule 3 is the appropriate agency.

General condition

3. The general condition for an operation or activity in this Schedule is that the operation or activity is not an operation or activity that falls within Chapter 5 of Part 2 of Schedule 1 (waste management).

Exempt waste operations

- 4.—(1) For the purpose of the definition of “exempt waste operation”, the requirements are—
- (a) that a waste operation—
 - (i) falls within a description in Part 1 of Schedule 3, and
 - (ii) satisfies the general and specific conditions specified in that Part in relation to the description,
 - (b) subject to sub-paragraph (2) and paragraph 13(10) of this Schedule, that—
 - (i) the waste operation is registered, and
 - (ii) an establishment or undertaking is registered in relation to it, and
 - (c) that the type and quantity of waste submitted to the waste operation, and the method of disposal or recovery, are consistent with the need to attain the objectives mentioned in Article 13 of the Waste Framework Directive.
- (2) The registration requirements in sub-paragraph (1)(b) do not apply in respect of a waste operation carried on by a person who is not an establishment or undertaking.

Exempt water discharge activities: Wales

5. For the purpose of the definition of “exempt water discharge activity”, the requirements in Wales are—
- (a) that a water discharge activity—
 - (i) falls within a description in Part 2 of Schedule 3, and
 - (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,
 - (b) that the water discharge activity is registered and, subject to paragraph 13(10) of this Schedule, for a water discharge activity that falls within a description in—
 - (i) paragraph 1 of Part 2 of Schedule 3, the operator is registered in relation to the activity, or

- (ii) paragraph 2 of Part 2 of that Schedule, the occupier is registered in relation to the activity, and
- (c) that the water discharge activity does not cause pollution of inland freshwaters, coastal waters or relevant territorial waters.

Exempt water discharge activities: England

6. For the purpose of the definition of “exempt water discharge activity”, the requirements in England are—

- (a) that the water discharge activity—
 - (i) falls within a description in Part 2 of Schedule 3, and
 - (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,
- (b) where the water discharge activity falls within a description in paragraph 1 of Part 2 of Schedule 3, that (in addition to the requirements in sub-paragraph (a))—
 - (i) the activity is registered by the operator, and
 - (ii) subject to paragraph 13(10) of this Schedule, the operator is registered in relation to that activity, and
- (c) that the water discharge activity does not cause pollution of inland freshwaters, coastal waters or relevant territorial waters.

Exempt groundwater activities: Wales

7. For the purpose of the definition of “exempt groundwater activity”, the requirements in Wales are—

- (a) that a groundwater activity—
 - (i) falls within a description in Part 3 of Schedule 3, and
 - (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,
- (b) that the groundwater activity is registered and, subject to paragraph 13(10) of this Schedule, for a groundwater activity that falls within a description in—
 - (i) paragraph 2 of Part 3 of Schedule 3, the operator is registered in relation to the activity,
 - (ii) paragraph 3 of Part 3 of that Schedule, the occupier is registered in relation to the activity, or
 - (iii) paragraph 5 of Part 3 of that Schedule, the operator is registered in relation to the activity, and
- (c) that the groundwater activity does not cause pollution of groundwater.

Exempt groundwater activities: England

8. For the purpose of the definition of “exempt groundwater activity”, the requirements in England are—

- (a) that the groundwater activity—
 - (i) falls within a description in Part 3 of Schedule 3, and
 - (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,

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- (b) where the groundwater activity falls within a description in paragraph 2 or 5 of Part 3 of Schedule 3, that (in addition to the requirements in sub-paragraph (a))—
 - (i) the activity is registered by the operator, and
 - (ii) subject to paragraph 13(10) of this Schedule, the operator is registered in relation to the activity, and
- (c) that the groundwater activity does not cause pollution of groundwater.

Exempt flood risk activities

9. An “exempt flood risk activity” is a flood risk activity that—
- (a) falls within a description in Part 4 of Schedule 3,
 - (b) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,
 - (c) is registered, and
 - (d) is an activity in relation to which the operator is registered.

Procedure for registering an exempt facility

10.—(1) An establishment or undertaking seeking to be registered in relation to a waste operation described in Part 1 of Schedule 3, or seeking to renew such a registration, must notify the exemption registration authority of—

- (a) the relevant particulars, and
- (b) the information specified in sub-paragraph (5).

(2) An occupier or operator seeking to be registered in relation to a water discharge activity described in Part 2 of Schedule 3 or a groundwater activity described in Part 3 of that Schedule must notify the exemption registration authority of the relevant particulars.

(3) An operator seeking to be registered in relation to a flood risk activity described in Part 4 of Schedule 3 must notify the exemption registration authority of the relevant particulars.

(4) The relevant particulars are—

- (a) the name and address of—
 - (i) for a waste operation, the establishment or undertaking, or
 - (ii) for a water discharge activity, groundwater activity or flood risk activity, the occupier or operator,
- (b) a description of the waste operation, water discharge activity, groundwater activity or flood risk activity,
- (c) the place where the waste operation, water discharge activity, groundwater activity or flood risk activity is carried on, including—
 - (i) the postcode (if applicable), or
 - (ii) the Ordnance Survey National Grid reference point, and
- (d) if the waste operation is a WEEE operation, the type and quantity of waste subject to the operation.

(5) The information in this sub-paragraph is the name and contact details of an individual officer or employee designated by the establishment or undertaking as the primary contact for the purposes of registration.

(6) Notification under sub-paragraph (1) or (2) must be in the form specified by the exemption registration authority.

(7) A notification under sub-paragraph (1) relating to a waste operation that is a WEEE operation must be accompanied by the applicable fee.

(8) In sub-paragraph (7), “applicable fee” means the fee prescribed under a charging scheme made under section 41 of the 1995 Act⁽¹⁾.

Register of exempt facilities

11.—(1) Every exemption registration authority must establish and maintain a register of exempt facilities in relation to which it is the exemption registration authority.

(2) Subject to sub-paragraphs (4) and (5), the exemption registration authority must ensure the register contains the relevant particulars—

- (a) for an exempt waste operation other than a WEEE operation, within 5 working days after the date that it receives notification of the relevant particulars and the information specified in paragraph 10(5);
- (b) for a WEEE operation—
 - (i) where a decision is made under sub-paragraph (3) not to inspect the operation, within 5 working days after the date of the decision;
 - (ii) otherwise, within 5 working days after the date of the inspection under sub-paragraph (3);
- (c) for an exempt water discharge activity, exempt groundwater activity or exempt flood risk activity, within 15 working days after the date that it receives notification of the relevant particulars.

(3) Where information notified in accordance with paragraph 10(1) relates to a WEEE operation, the exemption registration authority may carry out an inspection of the operation before adding the information to the register in accordance with sub-paragraph (2).

(4) Where following an inspection carried out under sub-paragraph (3) the authority is not satisfied that a WEEE operation would meet the conditions in sub-paragraph (3) of paragraph T11, the information notified must not be added to the register.

(5) The exemption registration authority must ensure the register is updated to reflect any changes notified under paragraph 16(1) of this Schedule or under Part 2 or 3 of Schedule 3—

- (a) for exempt waste operations, within 5 working days after the date that it receives the notification, or
- (b) for exempt water discharge activities, exempt groundwater activities and exempt flood risk activities, within 15 working days after that date.

(6) Every exemption registration authority must—

- (a) ensure that its register is open to inspection by the public free of charge at all reasonable hours, and
- (b) provide reasonable facilities to the public for obtaining a copy of an entry on payment of a reasonable charge.

(7) A register may be kept in any form.

(1) Section 41 was amended by paragraph 39 of Schedule 4 to the Flood and Water Management Act 2010 (c. 29) and by S.I. 2005/894, 1806 (W. 138), 2006/937, 2007/1711, 3106, 2008/3087, 2009/890, 3381, 2011/988, 1043, 2911, 2012/1659, 2788, 2013/755 (W. 90), 1821 and 2014/861.

Duty to remove entries from the register

12.—(1) The duty to maintain a register in paragraph 11(1) includes a duty to remove an entry from the register if—

- (a) the exemption registration authority becomes aware that the exempt facility is no longer in operation at the place stated in the relevant particulars, or
- (b) the facility ceases to be an exempt facility.

(2) If the exemption registration authority removes an entry from the register under sub-paragraph (1), it must notify without delay the occupier, operator or other person registered in relation to the exempt facility.

(3) Sub-paragraph (2) does not apply if the exemption registration authority was notified by the person registered in relation to the facility that the facility is no longer in operation at the place stated in the relevant particulars.

Exclusion from the register of information affecting national security

13.—(1) The appropriate authority may direct the exemption registration authority that, in the interests of national security, specified information or information of a specified description must be excluded from the register.

(2) The exemption registration authority must notify the appropriate authority of any information it excludes from the register pursuant to such a direction.

(3) The appropriate authority may direct the exemption registration authority that, in the interests of national security, before information of a specified description is included on the register, the information must be referred to the appropriate authority for determination as to whether or not it should be excluded from the register.

(4) A determination by the appropriate authority under sub-paragraph (3) to exclude information from the register must be given effect by a direction under sub-paragraph (1).

(5) A person may give a notice to the appropriate authority stating that, in the person's opinion, the inclusion of information on the register would be contrary to the interests of national security.

(6) A notice under sub-paragraph (5) must specify the information and indicate its apparent nature.

(7) A person giving a notice under sub-paragraph (5) must at the same time notify the exemption registration authority.

(8) The exemption registration authority must not include information notified under sub-paragraph (5) on the register unless the appropriate authority determines that it may be included.

(9) A determination by the appropriate authority to exclude information notified under sub-paragraph (5) from the register must be given effect by a direction under sub-paragraph (1).

(10) In relation to an exempt facility that is the subject of a direction or notice given under this paragraph, the requirement in paragraph 4(1)(b), 5(b), 6(b), 7(b) or 8(b)—

- (a) does not apply where a direction or notice requires the exclusion of all relevant particulars from the register, and
- (b) is satisfied where—
 - (i) a direction under sub-paragraph (1) requires the exclusion of some, but not all, relevant particulars from the register,
 - (ii) a direction under sub-paragraph (3) which is pending a determination under that sub-paragraph requires the exclusion of relevant particulars from the register, or

(iii) a notice under sub-paragraph (5) which is pending a determination under sub-paragraph (8) requires the exclusion of relevant particulars from the register, and where any relevant particulars which are not subject to a direction or notice are included on the register.

Restrictions on registering exempt waste operations carried on at the same place

14.—(1) An establishment or undertaking may not be registered more than once during a valid registration period in relation to any one waste operation described in Part 1 of Schedule 3 that is carried on or is to be carried on at the same place.

(2) If an establishment or undertaking is registered more than once in contravention of sub-paragraph (1), the second and any subsequent registration is invalid.

(3) Subject to sub-paragraph (7), not more than one establishment or undertaking may be registered at the same time in relation to the same waste operation described in Part 1 of Schedule 3 if the operation is carried on or is to be carried on at the same place.

(4) If more than one establishment or undertaking is registered in contravention of sub-paragraph (3), only the registration specified in sub-paragraph (5) is valid.

(5) The registration specified in this sub-paragraph is the registration of the establishment or undertaking in respect of which the relevant particulars first appeared on the register in the relevant period.

(6) In this paragraph, “relevant period” means the period during which the relevant particulars appear on the register.

(7) Sub-paragraph (3) does not apply in relation to a waste operation falling within a description in paragraph D2.

Validity of registration of waste operations

15.—(1) A first registration or a registration in relation to a WEEE operation is valid for 3 years.

(2) Any other registration in relation to a waste operation is valid until the end of validity of the first registration.

(3) For the purposes of sub-paragraphs (1) and (2), the period of validity of a registration commences on the date of registration or on the most recent renewal date, as the case may be.

(4) An establishment or undertaking may renew a registration at any time in the month prior to the registration becoming invalid (and the registration procedure specified in paragraph 10 applies in relation to any such renewal).

(5) Where an establishment or undertaking has renewed a registration, the renewal takes effect on the day after the day on which the previous registration becomes invalid.

(6) In this paragraph—

“date of registration” means the date on which the relevant particulars first appear on the register;

“first registration” means—

(a) the first appearance on the register of relevant particulars for an establishment or undertaking in relation to a waste operation other than a WEEE operation, or

(b) in the case of a renewal, the first such appearance following the end of validity of the registration, other than the end of validity of the registration of a WEEE operation;

“renewal date” means the date that the renewal of a registration takes effect.

Changes to relevant particulars relating to waste operations

16.—(1) An establishment or undertaking registered in relation to a waste operation must notify the exemption registration authority without delay of any changes to—

- (a) any of the relevant particulars, and
- (b) any of the information specified in paragraph 10(5).

(2) If an establishment or undertaking does not comply with sub-paragraph (1)(a), the exemption registration authority may remove from the register the entry made in respect of the establishment or undertaking.

(3) Notification under sub-paragraph (1) must be in the form specified by the exemption registration authority.

(4) The exemption registration authority must notify the establishment or undertaking without delay if it removes an entry from the register pursuant to sub-paragraph (2).

Record keeping for exempt waste operations

17.—(1) This paragraph applies to every exempt waste operation where the waste operation—

- (a) is a WEEE operation, or
- (b) falls within a description in—
 - (i) subject to sub-paragraph (2), paragraph U10 or U11;
 - (ii) paragraph T9;
 - (iii) paragraph T3 or T7 where the operation is carried on by waste mobile plant.

(2) But it does not apply in relation to an exempt waste operation where—

- (a) the waste operation falls within a description in paragraph U10 or U11, and
- (b) the establishment or undertaking is required to keep records in relation to the operation and the waste that is subject to that operation under the Nitrate Pollution Prevention Regulations 2015⁽²⁾ or the Nitrate Pollution Prevention (Wales) Regulations 2013⁽³⁾.

(3) An establishment or undertaking which carries on an exempt waste operation to which this paragraph applies must—

- (a) keep chronological records of the quantity, nature, origin and, where relevant, the destination and treatment method of all waste disposed of or recovered in the course of that operation, and
- (b) where the waste operation falls within a description in paragraph T3 or T7 and is carried on by waste mobile plant, keep records of the places where the operation is carried on.

(4) An establishment or undertaking which carries on an exempt waste operation to which this paragraph applies must—

- (a) retain any records that it is required to keep under sub-paragraph (3) for a period of—
 - (i) if the operation involves the treatment of hazardous waste, 3 years;
 - (ii) otherwise, 2 years, and
- (b) during that period make those records available to the exemption registration authority on request.

(2) S.I. 2015/668.

(3) S.I. 2013/2506 (W. 245), amended by S.I. 2015/2020 (W. 308).

Periodic inspections of establishments and undertakings

18. Every exemption registration authority must carry out appropriate periodic inspections of establishments and undertakings carrying on exempt waste operations in respect of which it is the exemption registration authority.