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STATUTORY INSTRUMENTS

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**2018 No. 1227**

The Environmental Protection (Miscellaneous  
Amendments) (England and Wales) Regulations 2018

PART 3

Amendments relating to environmental permitting

**Amendments to EPR 2016**

4.—(1) The Environmental Permitting (England and Wales) Regulations 2016<sup>(1)</sup> are amended as follows.

(2) In regulation 38 (offences), after paragraph (2) insert—

“(2A) But it is not an offence for a person to fail to comply with the environmental permit conditions in Part 3 of Schedule 9 (waste operations: management and technical competence conditions).”.

(3) In Schedule 3 (exempt facilities and waste operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions), in Part 4, in paragraph 20—

(a) for the heading, substitute “Notches”;

(b) in sub-paragraph (1), omit “fish passage”.

(4) In Schedule 5 (environmental permits), in Part 1, in paragraph 10(2)(c), for “(b) and (c)” substitute “(a) and (b)”.

(5) In Schedule 9 (waste operations and materials facilities), after Part 2 insert—

“PART 3

Waste operations: management and technical competence conditions

**Written management system conditions**

1.—(1) An environmental permit which meets each of the following criteria is subject to conditions A and B—

(a) the permit was granted before 6th April 2008;

(b) the permit does not authorise a waste operation carried on at an installation or by means of a Part B mobile plant; and

(c) the permit does not, immediately before 7th April 2019, contain a condition referring to a management system recorded in writing relating to risks relating to pollution.

(2) Condition A is that the operator must manage and operate the waste operation in accordance with a system (a “written management system”), described in a document or documents, which identifies and minimises the risks of pollution arising from the waste operation, including (but not limited to) those—

- (a) arising from operations (including maintenance);
- (b) arising from an accident or other incident;
- (c) arising from a failure to comply with or from a contravention of the environmental permit in question;
- (d) identified following a complaint; or
- (e) arising from the closure of the operation.

(3) Condition B is that the operator must—

- (a) from time to time, review the written management system and keep it up to date; and
- (b) keep a written record of—
  - (i) activities carried out in accordance with the written management system; and
  - (ii) any review or update under paragraph (a).

(4) If the regulator varies an environmental permit which meets the criteria in paragraph (1) so as to include a condition referring to a management system recorded in writing relating to risks relating to pollution, this paragraph ceases to apply to that environmental permit.

#### **Technical competence: notification condition**

2.—(1) An environmental permit is subject to the condition in sub-paragraph (6) if it meets one or both of the following criteria.

(2) The first criterion is that the permit authorises a waste operation which is not carried on at an installation or by means of a Part B mobile plant.

(3) The second criterion is that the permit authorises a specified waste management activity.

(4) Each of the following activities is a specified waste management activity—

- (a) the disposal of waste in a landfill falling within Section 5.2 of Part 2 of Schedule 1;
- (b) the disposal of hazardous waste falling within Section 5.3 of Part 2 of Schedule 1;
- (c) the recovery of hazardous waste falling within Part A(1)(a)(i), (ii), (iii), (iv), (v), (viii) or (x) of Section 5.3 of Part 2 of Schedule 1;
- (d) the disposal of non-hazardous waste falling within Part A(1)(a) of Section 5.4 of Part 2 of Schedule 1;
- (e) the recovery or a mix of recovery and disposal of non-hazardous waste falling within of Part A(1)(b) of Section 5.4 of Part 2 of Schedule 1;
- (f) the temporary or underground storage of hazardous waste falling within Section 5.6 of Part 2 of Schedule 1.

(5) But an activity falling within sub-paragraph (4)(b) to (f) is not a specified waste management activity if that activity—

- (a) is carried on at the same installation as a Part A(1) activity not mentioned in sub-paragraph (4); and
- (b) is not the activity which constitutes the primary purpose for operating the installation.

(6) The condition is that the operator must periodically give to the regulator—

- (a) information demonstrating the operator’s compliance with one of the following standards during the relevant period; or

- (b) if the operator did not comply with one of the following standards during the relevant period, information to that effect.
- (7) The first standard is the CIWM/WAMITAB Operator Competence Scheme, Version 9, September 2018, published by WAMITAB(2).
- (8) The second standard is the Competence Management System: Requirements, Version 4, April 2015, published by Energy and Utility Skills(3).
- (9) In sub-paragraph (6)—
  - (a) the reference to giving information periodically is a reference to giving information in each quarterly or annual return (as the case may be) for giving information about waste acceptance or removal in accordance with the environmental permit in question;
  - (b) “relevant period” means—
    - (i) in relation to the first period, the period beginning with 7th April 2019 and ending with the end of the period to which the first return relates;
    - (ii) in relation to each subsequent period, the quarter or year (as the case may be) to which the return relates.
- (10) The regulator may amend the form for giving information about waste acceptance or removal in accordance with an environmental permit so as to enable information to be given in accordance with this paragraph.”.
- (6) In Schedule 23 (radioactive substances activities), in Part 4, in paragraph 7—
  - (a) after sub-paragraph (1) insert—

“(1A) Paragraph (1)(d) does not apply in relation to waste that is a sealed source.”;
  - (b) for sub-paragraph (2) substitute—

“(2) In this paragraph—  
“radioactive waste adviser” means an individual, or group of individuals, with the knowledge, training and experience needed to give radioactive waste management and environmental radiation protection advice in relation to radioactive waste in order to ensure the effective protection of members of the public, and whose competence in that respect is recognised by the regulator;  
“sealed source” has the same meaning as in the Basic Safety Standards Directive(4).”.
- (7) In Schedule 25 (flood risk activities and excluded flood risk activities), in Part 2, in paragraph 5—
  - (a) for the heading, substitute “Ladders, scaffold towers and other similar apparatus”;
  - (b) in sub-paragraph (1), for “and scaffold towers” substitute “, scaffold towers and other similar apparatus used for access, maintenance or repair”.

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(2) A copy of the document can be seen at <https://wamitab.org.uk/wp-content/uploads/2018/09/CIWM-WAMITAB-Operator-Competence-Scheme-Version-9-Final.pdf> or obtained by writing to WAMITAB, Peterbridge House, 3 The Lakes, Northampton, NN4 7HETBC.

(3) A copy of the document can be seen at <https://www.euskills.co.uk/wp-content/uploads/2018/11/Competence-Management-System-Requirements-Version-4-April-2015.pdf> or obtained by writing to Energy and Utility Skills, Friars Gate, 1011 Stratford Road, Shirley, Solihull, B90 4BN.

(4) Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom. OJ No L 13, 17.01.2014, p. 1.