2016 No. 1154

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Environmental Permitting (England and Wales) Regulations 2016

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Made *11th December 2016*

Coming into force in accordance with regulation 1(1)

The Secretary of State and the Welsh Ministers make these Regulations in exercise of the powers conferred by—

(a) sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999 ("the 1999 Act")[1] ;
(b) sections 61 and 90 of, and Schedule 8 to, the Water Act 2014 ("the 2014 Act")[2] ; and
(c) paragraph 1A of Schedule 2 to the European Communities Act 1972[3] .

The Secretary of State also makes these Regulations in exercise of the powers conferred by section 62 of the Regulatory Enforcement and Sanctions Act 2008 ("the 2008 Act")[4] .

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972[5] and it appears to the Secretary of State and the Welsh Ministers that it is expedient for the reference to Commission Decision 2000/532/EC[6] mentioned in paragraph 1(1) of Chapter 1 of Part 1 of Schedule 3 to these Regulations to be construed as a reference to that instrument as amended from time to time.

In accordance with section 2(4) of the 1999 Act and section 61(5) of the 2014 Act, the Secretary of State and the Welsh Ministers have consulted—

(a) the Environment Agency,
(b) the Natural Resources Body for Wales,
(c) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses as they consider appropriate, and
(d) such other bodies or persons as they consider appropriate.

In accordance with section 61(3) of the 2014 Act, the Secretary of State and the Welsh Ministers have had regard to the desirability of reducing burdens by ensuring that so far as is reasonably practicable any system established by regulations under that section is combined with, or is consistent with, systems for regulating activities or other matters that cause pollution.

In accordance with section 66 of the 2008 Act, the Secretary of State is satisfied that the Environment Agency will act in accordance with the principles referred to in section 5(2) of that Act in exercising the powers in Schedule 26 to these Regulations to impose a civil sanction in relation to an offence.

A draft of this instrument has been approved by a resolution of each House of Parliament and by the National Assembly for Wales pursuant to section 2(8) and (9)(d) and (e) of the 1999 Act[7] and sections 62(7) and (8) and 90(3) of the 2014 Act.

Notes

1 1999 c. 24; section 2 was amended by section 62(13) of the Water Act 2014 (c. 21) and by S.I. 2013/755 (W. 90). Schedule 1 has been amended as follows: paragraphs 3 and 20 were amended by S.I. 2011/1043; paragraph 9A was inserted by, and paragraph 24 amended by, S.I. 2005/925 and paragraph 9A was further amended by S.I. 2012/2788; paragraph 21A was inserted by section 38 of the Waste and Emissions Trading Act 2003 (c. 33), and paragraph 25 was amended by section 105(1) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and by S.I. 2015/664. Functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales, except in relation to offshore oil and gas exploration and exploitation, by virtue of article 3(1) of the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958). But this was subject to article 3(2), which provided that, so far as any of those functions are exercisable by the Secretary of State in relation to a cross-border body but which, by their nature, are not functions which can be specifically exercised in relation to Wales, such functions are exercisable by the Assembly in relation to that body concurrently with the Secretary of State. Functions of the National Assembly for Wales were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

2 2014 c. 21. Section 61(9) contains the definition of "the Minister".

3 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) and by 2007/1388.

4 2008 c. 13.

5 Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 and by Part 1 of the Schedule to the European Union (Amendment) Act 2008.

6 OJ No L 226, 6.9.2000, p 3, as last amended by Commission Decision 2014/955/EU (OJ No L 370, 30.12.2014, p 44).

7 The reference in section 2(8) to approval by each House of Parliament has effect in relation to exercise of functions by the Welsh Ministers as if it were a reference to approval by the National Assembly for Wales by virtue of paragraph 33 of Schedule 11 to the Government of Wales Act 2006.

Extent

(a)-(d): England, Wales

PART 1

General

Law In Force

1.— Citation, commencement, extent and application

(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] .

Notes

1 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 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.

Commencement

Pt 1 reg. 1(1)-(5): January 1, 2017

Extent

Pt 1 reg. 1(1)-(5): England, Wales

Law In Force

2.— Interpretation: general

(1) In these Regulations—
"the 1980 Act" means the Highways Act 1980;
"the 1990 Act" means the Environmental Protection Act 1990;
"the 1991 Act" means the Water Resources Act 1991;
"the 1993 Act" means the Radioactive Substances Act 1993;
"the 1995 Act" means the Environment Act 1995;
"the 2007 Regulations" means the Environmental Permitting (England and Wales) Regulations 2007[1] ;
"the 2010 Regulations" means the Environmental Permitting (England and Wales) Regulations 2010[2] ;
"the Agency" means the Environment Agency;
"agricultural waste" means waste from premises used for agriculture within the meaning of the Agriculture Act 1947;
"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;

["combustion plant" means any technical apparatus in which fuels are oxidised in order to use the heat generated; **]** [3]

"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;

(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;

[(i) in relation to a medium combustion plant, the release of substances from the plant into the air;

(j) in relation to a specified generator, the release of substances from the plant into the air; **]** [4]

"enforcement notice" means a notice served under regulation 36;
"enforcement undertaking" has the meaning given in paragraph 1(3) of Schedule 26;
["environmental objectives"—

(a) in relation to the Northumbria River Basin District, means the environmental objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003[6] ;

(b) in relation to the Solway Tweed River Basin District, means the objectives as defined in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004[7] ;

(c) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations;

] [5]
"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;
["EU-derived domestic legislation" has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;] [8]
"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[9] , or

(ii) does not require such a licence by virtue of any provision made by or under section 74, 75[10] 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[11] ;

"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;
"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;
["groundwater 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 groundwater activity, and
(c) not an installation or Part B mobile plant;

"groundwater Source Protection Zone 1" means a zone—

(a) within 50m of a point at which water is abstracted for domestic or food production purposes from any underground strata, or
(b) defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes,

whichever is larger; **]** [12]
"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[11] ;
(b) in relation to Wales, has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005[13] ;

"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[14] ;
"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" **[** , except in Schedule 1A, **]** [15] has the meaning given in regulation 6;
"main river" has the meaning given in paragraph 2(1) of Part 1 of Schedule 25;
["medium combustion plant" has the meaning given in paragraph 2(1) of Schedule 25A; **]** [16]
"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 medium combustion plant" means a medium combustion plant that is—

(a) designed to move or be moved whether on roads or other land, and
(b) is not Part B mobile plant;

] [17]
["mobile plant", in relation to England, means any of the following—

(a) Part B mobile plant;
(b) waste mobile plant;

(c) mobile medium combustion plant;
(d) groundwater mobile plant;
] [18]
"mobile plant" [, in relation to Wales,] [19] means [any] [20] of the following—
(a) Part B mobile plant;
(b) waste mobile plant;
[(c) mobile medium combustion plant;] [21]
"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;
"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 [paragraph (8) and to Sections 2.2, 5.1 and 6.4 in Part 2 of Schedule 1] [22], 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" [, in relation to Wales,] [23] means any substance liable to cause pollution;
["pollutant", in relation to England, means any—
(a) substance,
(b) heat, or
(c) biological entity or micro-organism,
which is liable to cause pollution;";

"pollution", in relation to England, in relation to a water discharge activity or groundwater activity, means the direct or indirect introduction, as a result of human activity, of substances, heat or biological entities or micro-organisms into 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;

] [12]

"pollution" **[** , in relation to Wales, **]** [24] 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[25] ,

(b) section 163 of the 1991 Act[26] ,

(c) section 165 of the Water Industry Act 1991, 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;
"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;
["specified generator" has the meaning given in paragraph 2(1) of Schedule 25B; **]** [27]
"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, 19, 25A and 25B **]** [28], means anything that—

(i) is waste within the meaning of Article 3(1) of the Waste Framework Directive **[**, as read with Articles 5 and 6 of that Directive **]** [29], 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 **[**, as read with Articles 5 and 6 of that Directive **]** [29], 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;

["the WFD Regulations" means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017; **]** [30]

"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.

(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.

[(8) From the transfer date any medium combustion plant or specified generator does not form part of a Part B installation unless the operation of the plant is itself a Part B activity.

(9) In paragraph (8), "transfer date" has the meaning given in regulation 32(5C). **]** [31]

Notes

[1] Amended by S.I. 2009/1307, 1799, 3381, 2010/22, 490, 675, 2011/988 and 2012/811.

[2] 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.

[3] Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(a) (January 30, 2018)

[4] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(b) (January 30, 2018)

[5] Definition inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(2)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[6] S.I. 2003/3245, amended by S.I. 2016/139 and 2017/407.

[7] S.I. 2004/99, amended by S.I. 2016/139.

[8] Definition inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(2)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[9] Part 4 of that Act concerns marine licensing.

[10] Section 75 was amended by S.I. 2011/405 and 2016/738.

[11] To which there are amendments not relevant to these Regulations.

[12] Definitions inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.3(d) (October 2, 2023)

[13] Amended by S.I. 2015/1417 (W. 141); there are other amending instruments but none is relevant.

[14] 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).

[15] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(2)(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[16] Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(c) (January 30, 2018)

[17] Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(d) (January 30, 2018)

[18] Definition inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.3(d) (October 2, 2023)

[19] Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.3(a) (October 2, 2023)

[20] Word substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(e)(i) (January 30, 2018)

[21] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(e)(ii) (January 30, 2018)

[22] Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(f) (January 30, 2018)

[23] Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.3(b) (October 2, 2023)

[24] Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.3(c) (October 2, 2023)

[25] 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.

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

[27] Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(g) (January 30, 2018)

[28] Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(1)(h) (January 30, 2018)

[29] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(2)(d) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[30] Definition inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(2)(e) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[31] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.3(2) (January 30, 2018)

Commencement

Pt 1 reg. 2(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 2(1)-(9): England, Wales

Law In Force

3. Interpretation: Directives

In these Regulations—

"the Asbestos Directive" means Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos[1] **[** , as read in accordance with paragraph 1 of Schedule 1A **]** [2] ;

["the Basic Safety Standards Directive" means Council Directive 2013/59/Euratom laying down basic safety standards for the protection against the dangers arising from exposure to ionising radiation[4] **[** , as read in accordance with paragraph 2 of Schedule 1A **]** [5] ; **]** [3]

"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[6] **[** , as last amended by Directive (EU) 2018/849 **]** [7] **[** , as read in accordance with paragraph 3 of Schedule 1A **]** [8] ;

"the End-of-Life Vehicles Directive" means Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles[9] **[** , as last amended by Commission Delegated Directive (EU) 2020/363 **]** [10] **[** , as read in accordance with paragraph 4 of Schedule 1A **]** [11] ;

"the Energy Efficiency Directive" means Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency[12] **[** , as read in accordance with paragraph 5 of Schedule 1A **]** [13] ;

[…][14] **[…]**[15]

"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)[16] **[** , as read in accordance with paragraph 6 of Schedule 1A **]** [17] ;

"the Landfill Directive" means Council Directive 1999/31/EC on the landfill of waste[18] **[** , as last amended by Directive (EU) 2018/850 **]** [19] , 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[20] **[** , and in accordance with paragraph 7 of Schedule 1A **]** [21] ;

["the Medium Combustion Plant Directive" means Directive 2015/2193/EU of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants[23] **[** , as read in accordance with paragraph 8 of Schedule 1A **]** [24] ; **]** [22]

"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[25] **[** , as read in accordance with paragraph 9 of Schedule 1A **]** [26] ;

"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[27] **[** , as read in accordance with paragraph 10 of Schedule 1A **]** [28] ;

"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[29] **[** , as read in accordance with paragraph 11 of Schedule 1A **]** [30] ;

"the Waste Framework Directive" means Directive 2008/98/EC of the European Parliament and of the Council on waste **[** , as last amended by **]** [31] **[** Directive (EU) 2018/851 **]** [32] **[** , and as read in accordance with paragraph 12 of Schedule 1A **]** [33] ;

"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[34] **[** , as read in accordance with paragraph 13 of Schedule 1A **]** [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] **[** , as last amended by Directive (EU) 2018/849 **]** [37] **[** , as read in accordance with paragraph 14 of Schedule 1A **]** [38] .

Notes

[1] 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).

[2] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[3] Definition substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 reg.3(a) (May 2, 2018)

[4] OJ No L 13, 17.01.2014, p. 1.

[5] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[6] 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).

[7] Words inserted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(2)(a) (October 1, 2020)

[8] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[9] 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).

[10] Words inserted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(2)(b) (October 1, 2020)

[11] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(d) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[12] 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).

[13] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(e) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[14] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(f) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[15] Definition revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 reg.3(b) (May 2, 2018)

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

[17] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(g) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[18] 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).

[19] Words inserted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(2)(c) (October 1, 2020)

[20] OJ No L 11, 16.1.2003, p 27.

[21] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(h) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[22] Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.4 (January 30, 2018)

[23] OJ No L 313, 28.11.2015, p. 1–19.

[24] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[25] 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).

[26] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(j) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[27] 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).

[28] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(k) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[29] 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).

[30] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(l) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[31] Words inserted by Hazardous Waste (Miscellaneous Amendments) (Wales) Regulations 2018/721 reg.6 (July 5, 2018)

[32] Words substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(2)(d) (October 1, 2020)

[33] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(m) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[34] 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).

[35] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(n) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[36] OJ No L 197, 24.7.2012, p 38.

[37] Words inserted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(2)(e) (October 1, 2020)

[38] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(3)(o) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Pt 1 reg. 3 definition of "the Asbestos Directive"- definition of "the WEEE Directive": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 3 definition of "the Asbestos Directive"- definition of "the WEEE Directive": England, Wales

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Law In Force

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

(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[1] —

(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.

Notes

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

Commencement

Pt 1 reg. 4(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 4(1)-(3)(b): England, Wales

Law In Force

5. Interpretation: exempt facilities

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.

Commencement

Pt 1 reg. 5 definition of "exempt facility"- definition of "exempt water discharge activity" (b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 5 definition of "exempt facility"- definition of "exempt water discharge activity" (b): England, Wales

Law In Force

6.— Interpretation: local authority

(1) In these Regulations, [except in Schedule 1A,][1] "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 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.

Notes

[1] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(4) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Pt 1 reg. 6(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 6(1)-(2): England, Wales

Law In Force

7. Interpretation: operate a regulated facility and operator

In these Regulations—

"operate a regulated facility" means—

(a) operate an installation **[**, mobile plant, a medium combustion plant or a specified generator**]** [1] , 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.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.5 (January 30, 2018)

Commencement

Pt 1 reg. 7 definition of "operate a regulated facility"- definition of "operator" (c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 7 definition of "operate a regulated facility"- definition of "operator" (c): England, Wales

Law In Force

8.— Interpretation: regulated facility and class of regulated facility

(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;

(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 **[**;**]** [1]

[(k) a medium combustion plant;

(l) a specified generator.**]** [1]

(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 **[** ; **]** [2]
[(h) a medium combustion plant;
(i) a specified generator. **]** [2]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.6(a) (January 30, 2018)

[2] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.6(b) (January 30, 2018)

Commencement

Pt 1 reg. 8(1)-(4)(g): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 8(1)-(4)(i): England, Wales

Law In Force

9. Interpretation: relevant function

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.

Commencement

Pt 1 reg. 9(a)-(h): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 9(a)-(h): England, Wales

Law In Force

10.— Giving notices, notifications and directions, and the submission of forms

(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.

Commencement

Pt 1 reg. 10(1)-(9): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 1 reg. 10(1)-(9): England, Wales

PART 2

Environmental permits

CHAPTER 1

Application to the Crown and requirement for an environmental permit

Law In Force

11. Application to the Crown

Schedule 4 (application of these Regulations to the Crown) has effect.

Commencement

Pt 2(1) reg. 11: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(1) reg. 11: England, Wales

Law In Force

12.— Requirement for an environmental permit

(1) A person must not, except under and to the extent authorised by an environmental permit—

(a) operate a regulated facility, or

(b) cause or knowingly permit a water discharge activity or groundwater activity.

[(1A) Paragraph (1)(a) does not apply in relation to the operation of a medium combustion plant, mobile medium combustion plant or a specified generator comprising—

(a) a new medium combustion plant, before 20th December 2018;

(b) an existing medium combustion plant with a rated thermal input greater than 5 megawatts, before 1st January 2024;

(c) an existing medium combustion plant with a rated thermal input of less than or equal to 5 megawatts, before 1st January 2029;

(d) a specified generator, before the permitting date,

unless that medium combustion plant, mobile medium combustion plant or specified generator, is required to have a permit by virtue of forming part of another class of regulated facility.

(1B) For the purposes of paragraph (1A)—

(a) "existing medium combustion plant" and "new medium combustion plant" have the meanings given in paragraph 2(1) of Schedule 25A;

(b) "permitting date" has the meaning given in paragraph 3(2) of Schedule 25B.

] [1]

(2) Paragraph (1)(b) does not apply if the water discharge activity or groundwater activity is an exempt facility.

(3) In respect of a radioactive substances activity, paragraph (1) does not apply to a person to whom a radioactive substances exemption applies for that activity.

(4) Paragraph (5) applies to a person ("A") who—

(a) receives radioactive waste from another person ("B") for the purposes of A disposing of that waste, and

(b) subsequently disposes of that waste.

(5) Where this paragraph applies, A does not require an environmental permit—

(a) for the receipt of waste from B, where B holds an environmental permit which allows B to dispose of the waste to A, or

(b) for the subsequent disposal of that waste by A, where the waste is disposed of in accordance with the permit held by B.

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.7 (January 30, 2018)

Commencement

Pt 2(1) reg. 12(1)-(5)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(1) reg. 12(1)-(5)(b): England, Wales

CHAPTER 2

Grant of an environmental permit

Law In Force

13.— Grant of an environmental permit

(1) On the application of an operator, the regulator may grant the operator a permit (an "environmental permit") authorising—

(a) the operation of a regulated facility, and

(b) that operator as the person authorised to operate that regulated facility.

(2) Regulation 17 applies in relation to the grant of a single permit authorising the operation of more than one regulated facility by the same operator.

(3) Part 1 of Schedule 5 applies in relation to an application for the grant of an environmental permit.

Commencement

Pt 2(2) reg. 13(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(2) reg. 13(1)-(3): England, Wales

Law In Force

14.— Content and form of an environmental permit

(1) An environmental permit must specify—

(a) the regulated facility whose operation it authorises, and

(b) the operator of that regulated facility.

(2) An environmental permit that authorises the operation of a regulated facility ("regulated facility A") need not specify any regulated facility of another class that is carried on as part of the operation of regulated facility A.

(3) An environmental permit may be in electronic form.

(4) An environmental permit must include a map, plan or other description of the site showing the geographical extent of the site of the regulated facility.

(5) But if there is more than one regulated facility on the site, the map, plan or other description need show only the combined extent of all the facilities.

(6) Paragraphs (4) and (5) do not apply to an environmental permit authorising—

(a) the operation of mobile plant, or

[(aa) the keeping of radioactive material or the accumulation or removal of radioactive waste under paragraph 11(2) of Part 2 of Schedule 23, where—

(i) the activity is described in standard rules published under regulation 26(5); and

(ii) the permit authorises the carrying on of that activity at more than one site; or

] [1]

(b) the carrying on of a radioactive substances activity described in paragraph 11(5) of Part 2 of Schedule 23.

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 reg.4 (May 2, 2018)

Commencement

Pt 2(2) reg. 14(1)-(6)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(2) reg. 14(1)-(6)(a), (6)(b): England, Wales

Pt 2(2) reg. 14(6)(aa)-(6)(aa)(ii): (extent not available)

Law In Force

15.— Conditions in relation to certain land

(1) Conditions in an environmental permit may require the operator to carry out works or do other things in relation to land which the operator is not entitled to do or carry out without obtaining the consent of another person.

(2) If an environmental permit contains such a condition, the person whose consent is required must grant the operator such rights as are necessary to enable the operator to comply with the condition.

(3) Part 2 of Schedule 5 (compensation) applies where such rights are granted.

(4) Conditions in an environmental permit authorising the carrying on of a flood risk activity have effect as a local land charge where those conditions—

(a) in accordance with the power in paragraph 6 of Part 1 of Schedule 25, relate to—

(i) the operation or maintenance of any structure or works, or

(ii) access to any structure, works or watercourse by the regulator, and

(b) are expressed to apply from time to time.

(5) Where the Agency proposes to grant an application in relation to a flood risk activity in England subject to a condition which has effect in accordance with paragraph (4), the regulator must give notice of the proposed condition and the period within which representations on the proposed condition are to be made (which period must not expire less than 20 days after the day on which the notice is served) to—

(a) the landowner, lessee and occupier, where none is the applicant;

(b) the landowner and lessee, where the occupier is the applicant;

(c) the landowner and occupier, where the lessee is the applicant;

(d) the lessee and occupier, where the landowner is the applicant.

(6) Where the NRBW proposes to grant an application in relation to a flood risk activity in Wales subject to a condition which has effect in accordance with paragraph (4), the regulator must not issue the relevant permit unless the applicant has demonstrated to the satisfaction of the regulator that consent for that permit to be issued subject to such a condition has been given by—

(a) the landowner, lessee and occupier, where none is the applicant;
(b) the landowner and lessee, where the occupier is the applicant;
(c) the landowner and occupier, where the lessee is the applicant;
(d) the lessee and occupier, where the landowner is the applicant.

(7) In paragraphs (5) and (6), "landowner" means the person, other than a mortgagee not in possession, who—

(a) is receiving the rack rent of the land, whether on the person's own account or as agent or trustee for another person, or
(b) would receive the rack rent if the land were let at a rack rent.

Commencement

Pt 2(2) reg. 15(1)-(7)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(2) reg. 15(1)-(7)(b): England, Wales

Law In Force

16. Mobile plant operating on the site of another regulated facility: conflict of permit conditions

If—

(a) an environmental permit ("permit A") authorises the operation of mobile plant on the site of another regulated facility the operation of which is authorised under a separate environmental permit ("permit B"), and
(b) there is an inconsistency between the requirements imposed by permit A and those imposed by permit B,

the requirements imposed by permit B prevail.

Commencement

Pt 2(2) reg. 16(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(2) reg. 16(a)-(b): England, Wales

Law In Force

17.— Single site permits etc.

(1) Except as otherwise provided by this regulation, a regulator may not authorise the operation of more than one regulated facility under a single environmental permit.

(2) The regulator may authorise, under a single environmental permit, the operation by the same operator—

(a) of more than one mobile plant,
(b) of more than one radioactive substances activity described in paragraph 11(5) of Part 2 of Schedule 23,
(c) of more than one regulated facility on the same site,
(d) of more than one standard facility on more than one site,
(e) of more than one flood risk activity on more than one site, **[…]**[1]
(f) of more than one radioactive substances activity described in paragraph 11(6) of Part 2 of Schedule 23 on more than one site, where all such activities are in respect of the use or potential use of the same premises for underground disposal (within the meaning of paragraph 11(7) of that Schedule) **[**,**]**[1]
[(g) of more than one medium combustion plant on more than one site,
(h) of more than one specified generator on more than one site, or
(i) of more than one Part B installation that contains at least one medium combustion plant on more than one site.**]**[1]

(3) But if a groundwater activity is carried on as part of a radioactive substances activity by the same operator on the same site, the regulator must authorise the carrying on of the groundwater activity under the same environmental permit that authorises the carrying on of the radioactive substances activity.

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.8 (January 30, 2018)

Commencement

Pt 2(2) reg. 17(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(2) reg. 17(1)-(3): England, Wales

Law In Force

18.— Consolidation of an environmental permit

(1) Paragraph (2) applies if the same operator is authorised by more than one environmental permit to operate—

(a) more than one mobile plant,
(b) more than one flood risk activity on the same site or on more than one site,
(c) more than one standard facility, or
(d) more than one regulated facility on the same site.

(2) The regulator may replace the environmental permits ("old permits") with a consolidated environmental permit—

(a) applying to the same regulated facilities, and

(b) subject to the same conditions that applied to the old permits, but varied as the regulator thinks fit.

(3) The regulator may replace a consolidated environmental permit ("old permit") with two or more environmental permits ("new permits").

(4) Each of the new permits is subject to whichever conditions of the old permit are relevant, varied as the regulator thinks fit.

(5) The regulator may replace a single environmental permit ("old permit") which has been varied with a consolidated environmental permit subject to the same conditions that applied to the old permit.

(6) A variation made by a regulator under this regulation—

(a) is taken to be a regulator-initiated variation under regulation 20(1), and

(b) may only be made in accordance with regulation 20.

(7) Paragraphs 17 to 19 of Part 1 of Schedule 5 apply in relation to the decision to make a regulator-initiated variation and the notification of such a decision.

Commencement

Pt 2(2) reg. 18(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(2) reg. 18(1)-(7): England, Wales

Law In Force

19. Subsistence of an environmental permit

Once granted, an environmental permit continues in force until—

(a) it is revoked in whole in accordance with regulation 22,

(b) it is surrendered in whole in accordance with—

(i) regulation 24, or

(ii) regulation 25 and Part 1 of Schedule 5,

(c) it is replaced with a consolidated permit in accordance with any of the following—

(i) regulation 18(2);

(ii) regulation 22(5);

(iii) paragraph 19(2) of Part 1 of Schedule 5, or

(d) it ceases to have effect in accordance with regulation 71(3) or (4).

Commencement

Pt 2(2) reg. 19(a)-(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(2) reg. 19(a)-(d): England, Wales

CHAPTER 3

Variation, transfer, revocation and surrender of an environmental permit

Law In Force

20.— Variation of an environmental permit

(1) The regulator may vary an environmental permit on the application of the operator or on its own initiative.

(2) A variation under this regulation must not reduce the extent of the site of a regulated facility.

(3) Paragraph (2) does not apply if the variation relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description—

(a) a Part B installation, except to the extent that it relates to a waste operation;

(b) a stand-alone water discharge activity or stand-alone groundwater activity.

(4) With respect to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone water discharge activity, a regulator must not, without the agreement of the operator, on its own initiative—

(a) within 4 years after the grant of the permit, vary any condition of the permit that relates to the water discharge activity, or

(b) within 4 years after the variation of a condition of the permit that relates to the water discharge activity, further vary that condition.

(5) Paragraph (4) does not apply if—

(a) the regulated facility is a standard facility,

(b) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in order to comply with—

(i) an obligation [under [assimilated]2 law]1 , or

(ii) a direction given by the appropriate authority under regulation 62, or

(c) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in consequence of a transfer or partial transfer of an environmental permit under regulation 21.

(6) Part 1 of Schedule 5 applies in relation to an application for the variation of an environmental permit or a proposal to vary an environmental permit on the initiative of the regulator under paragraph (1).

(7) With respect to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone flood risk activity, the regulator must not, without the agreement of the operator, of its own initiative vary any condition of the permit that relates to the flood risk activity unless—

(a) in the opinion of the regulator, the circumstances in which the activity is or is to be carried on have changed such that any of the objectives in paragraph 5 of Part 1 of Schedule 25 would no longer be met, and

(b) in the case of a variation that relates to an activity that involves any construction or works, the variation relates to aspects of the construction or works which have not yet been completed.

(8) Paragraph (7) does not apply if the regulator, of its own initiative, varies an environmental permit, or any condition of a permit, in order to comply with—

(a) an obligation [1] under [2] assimilated law [2] , or

(b) a direction given by the appropriate authority under regulation 62.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(5) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[2] Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(a) (February 27, 2025)

Commencement

Pt 2(3) reg. 20(1)-(8)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(3) reg. 20(1)-(8)(b): England, Wales

Law In Force

21.— Transfer of an environmental permit

(1) The regulator may transfer to a proposed transferee an environmental permit or any part of an environmental permit—

(a) if the operator is one individual (A) and the regulator is satisfied that A cannot be found, on the application of the proposed transferee only,

(b) if the operator is two or more individuals (A and B) and the regulator is satisfied that A cannot be found, on the joint application of B and the proposed transferee, or

(c) otherwise, on the joint application of the operator and the proposed transferee.

(2) Part 1 of Schedule 5 applies in relation to an application for the transfer of an environmental permit in whole or in part.

(3) Paragraph (1) does not apply to an environmental permit (or any part of a permit) that authorises the carrying on of a stand-alone water discharge activity, stand-alone groundwater activity or a stand-alone flood risk activity.

(4) The regulator may transfer to a proposed transferee an environmental permit to which paragraph (1) does not apply, or any part of that permit—

(a) if the operator is one individual (A) and the regulator is satisfied that A cannot be found, on the notification of the proposed transferee only,

(b) unless sub-paragraph (c) applies, if the operator is two or more individuals (A and B) and the regulator is satisfied that A cannot be found, on the joint notification of B and the proposed transferee,

(c) if the operator is two or more individuals (A and B) and the proposed transferee is two or more individuals (B and C), where B is both an operator and a proposed transferee—

(i) on the joint notification of A and C, or

(ii) if the regulator is satisfied that A cannot be found, on the notification of C only, or

(d) otherwise, on the joint notification of the operator and the proposed transferee.

(5) A notification must—

(a) be made on the form provided by the regulator,

(b) include such information as is specified on the form, and

(c) specify a date on which the transfer is to take place, which must be not less than 20 working days after the date on which the notification is given.

(6) A transfer following a notification takes effect on the date specified in the notification.

(7) In the case of a partial transfer following a notification, the regulator must grant a new environmental permit to the transferee subject to the same conditions as the original permit, varied in consequence of the partial transfer.

(8) If—

(a) an enforcement notice or a suspension notice is in force in respect of an environmental permit, and

(b) the permit is transferred to another person, either in whole or in part,

the duty to comply with the enforcement notice or, as the case may be, the suspension notice is also transferred to the other person to the extent that it relates to the permit or part transferred.

(9) Unless a proposed transferee makes a joint application or gives a joint notification, the regulator may not transfer to the proposed transferee an environmental permit or any part of an environmental permit in respect of a regulated facility that ceased to be in operation more than 6 months before the proposed date of transfer.

Commencement

Pt 2(3) reg. 21(1)-(9): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(3) reg. 21(1)-(9): England, Wales

Law In Force

22.— Revocation of an environmental permit: general

(1) The regulator may revoke an environmental permit in whole or in part.

(2) If the regulator revokes an environmental permit in part, it may vary the permit conditions to the extent that it considers necessary to take account of the revocation.

(3) Where the regulator decides to revoke an environmental permit it must serve a notice on the operator specifying—

(a) the reasons for the revocation,

(b) in the case of a partial revocation—

(i) the extent to which the environmental permit is being revoked, and

(ii) any variation to the conditions of the environmental permit, and

(c) the date on which the revocation will take place, which must not be less than 20 working days after the date on which the notice is served.

(4) Unless the regulator withdraws a revocation notice, an environmental permit ceases to have effect on the date specified in the notice—

(a) in the case of a revocation in whole, entirely,

(b) in the case of a partial revocation, to the extent of the part revoked.

(5) In the case of a partial revocation, the regulator may replace the environmental permit with a consolidated environmental permit reflecting the variation.

(6) Any variation made by a regulator under this regulation—

(a) is taken to be a regulator-initiated variation under regulation 20(1), and

(b) may only be made in accordance with regulation 20.

(7) Paragraphs 17 to 19 of Part 1 of Schedule 5 apply in relation to the decision to make a regulator-initiated variation and the notification of such a decision.

(8) Where an environmental permit authorises in whole or in part an operation which becomes an exempt operation, that part of the permit which authorises the exempt operation is revoked on the date that the operation is registered as an exempt operation.

(9) In paragraph (8), "operation" means a waste operation, stand-alone water discharge activity or stand-alone groundwater activity.

Commencement

Pt 2(3) reg. 22(1)-(9): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(3) reg. 22(1)-(9): England, Wales

Law In Force

23.— Revocation of an environmental permit: steps to be taken after the revocation takes effect

(1) This regulation applies where the regulator has decided to revoke an environmental permit, or part of a permit, and the regulator considers that, after the revocation takes effect, it is appropriate for the operator to take steps—

(a) to avoid a pollution risk resulting from the operation of the regulated facility, or

(b) to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation.

(2) But this regulation does not apply if the revocation relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description—

(a) a Part B installation, except to the extent that it relates to a waste operation;
(b) mobile plant;
(c) a stand-alone water discharge activity or stand-alone groundwater activity.

(3) If the operator is already required to take the steps mentioned in paragraph (1) under the environmental permit, the revocation notice must specify the regulator's view under paragraph (1) and state that paragraph (4) applies.

(4) The environmental permit continues to have effect to the extent that it requires the steps to be taken until the regulator issues a certificate stating that it is satisfied that all the steps have been taken.

(5) If the operator is not already required to take the steps mentioned in paragraph (1) under the environmental permit, the revocation notice must specify the regulator's view under paragraph (1) and the steps to be taken.

(6) If paragraph (5) applies, unless the regulator issues a certificate stating that it is satisfied that all the steps have been taken, the steps must be treated as if they were conditions of an environmental permit for the purposes of—

(a) regulation 20,
(b) regulation 36, and
(c) the offence in regulation 38(2).

Commencement

Pt 2(3) reg. 23(1)-(6)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(3) reg. 23(1)-(6)(c): England, Wales

Law In Force

24.— Notification of the surrender of an environmental permit

(1) This regulation applies to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description or class—

(a) a Part B installation, except to the extent that it relates to a waste operation;
(b) mobile plant;
(c) a solvent emission activity;
(d) [in relation to Wales,] [1] a stand-alone water discharge activity or stand-alone groundwater activity;
(e) a stand-alone flood risk activity, except where the environmental permit has been granted subject to a condition that is to operate beyond the time when the activity is complete [;] [2]

[(f) a medium combustion plant;
(g) a specified generator [;] [3]] [2]
[(h) in relation to England, a stand-alone water discharge activity or stand-alone groundwater activity other than a discharge to a well or borehole—
(i) which is used for hydrocarbon exploration or extraction, and
(ii) which intersects a hydrocarbon formation.
] [3]

(2) By notification to the regulator, the operator may surrender that part of an environmental permit (or if applicable, the whole permit) to which this regulation applies.

(3) A notification must—
(a) be made on the form provided by the regulator,
(b) include such information as is specified in the form, and
(c) specify the date on which the surrender is to take place, which—
(i) in all cases, must not be less than 20 working days after the date on which the notification is given, and
(ii) in the case of a stand-alone flood risk activity where the regulator has specified in the environmental permit a date by which the activity must be completed, must not be earlier than the day after that date.

(4) Subject to paragraph (7), the environmental permit ceases to have effect on the date specified in the notification to the extent specified there.

(5) Paragraphs (6) and (7) apply to a partial surrender if the regulator considers it necessary to vary the environmental permit conditions to take account of that surrender.

(6) The regulator must serve a notice on the operator specifying—
(a) the regulator's view under paragraph (5),
(b) the variation, and
(c) the date the variation takes effect.

(7) If the date specified in the notice under paragraph (6)(c) is later than the date specified in the notification under paragraph (3)(c), the variation and partial surrender both take effect on the later date.

Notes

[1] Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.4(a) (October 2, 2023)

[2] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.9 (January 30, 2018)

[3] Added by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.4(b) (October 2, 2023)

Commencement

Pt 2(3) reg. 24(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(3) reg. 24(1)-(7): England, Wales

Law In Force

25.— Application for the surrender of an environmental permit

(1) This regulation applies to an environmental permit, or any part of a permit, to which regulation 24 does not apply.

(2) By application to the regulator, an operator may surrender an environmental permit, or that part of a permit, to which this regulation applies.

(3) Part 1 of Schedule 5 applies in relation to an application for the surrender of an environmental permit in whole or in part.

Commencement

Pt 2(3) reg. 25(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(3) reg. 25(1)-(3): England, Wales

CHAPTER 4

Standard rules

Law In Force

26.— Preparation and revision of standard rules

(1) A rule-making authority may prepare standard rules for such regulated facilities as are described in those rules.

(2) In preparing or revising standard rules the authority must consult—

(a) such persons as it considers are representative of the interests of communities likely to be affected by, or persons operating, the regulated facilities described in the rules, and

(b) such other persons as it considers are likely to be affected by or have an interest in the rules.

(3) But the duty in paragraph (2) does not apply in relation to revisions which comprise only minor administrative changes.

(4) The authority must keep under review all standard rules published by it under this regulation and revise those rules when it considers necessary.

(5) The authority must publish on its website all standard rules prepared or revised by it under this regulation.

(6) The duty in paragraph (2) may be satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

Commencement

Pt 2(4) reg. 26(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(4) reg. 26(1)-(6): England, Wales

Law In Force

27.— Standard rules as conditions of an environmental permit

(1) This regulation applies where a rule-making authority has published standard rules under regulation 26(5).

(2) At the request of the operator of a standard facility the regulator may include in the environmental permit authorising the operation of the facility a term providing that the relevant rules are conditions of the permit.

(3) If the regulator includes such a term, the relevant rules are conditions of the permit for the purposes of these Regulations, but there is no right of appeal under regulation 31 in relation to such a condition or the relevant rules.

(4) In this regulation, "relevant rules" means the standard rules which apply to the standard facility.

Commencement

Pt 2(4) reg. 27(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(4) reg. 27(1)-(4): England, Wales

Law In Force

28.— Notification of revisions of standard rules

(1) This regulation applies where the rule-making authority proposes to revise standard rules under regulation 26(4).

(2) Before the rule-making authority complies with regulation 26(5), the regulator must notify any operator who holds a relevant environmental permit—

(a) of the proposed revisions,

(b) of the date when the revised rules will be published and when they take effect (in accordance with paragraph (3)), and

(c) that on the date the revised rules take effect they will become conditions of the environmental permit.

(3) The revised rules take effect—

(a) in relation to a relevant environmental permit, 3 months after the date when the revised rules are published under regulation 26(5), except where the revisions comprise only minor

administrative changes (in which case they take effect in accordance with sub-paragraph (b));

(b) in any other case, when published under regulation 26(5).

(4) In this regulation, "relevant environmental permit" means an environmental permit which will be affected by the proposed revisions.

Commencement

Pt 2(4) reg. 28(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(4) reg. 28(1)-(4): England, Wales

Law In Force

29. Revocation of standard rules

The rule-making authority may revoke standard rules, but before doing so must consult the persons referred to in regulation 26(2).

Commencement

Pt 2(4) reg. 29: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(4) reg. 29: England, Wales

Law In Force

30.— Variation of an environmental permit: revocation of standard rules

(1) This regulation applies to an environmental permit which includes a standard rules term if the standard rules applying by virtue of that term are revoked by the regulator.

(2) The revoked rules continue to have effect until the regulator varies the permit under paragraph (3).

(3) As soon as reasonably practicable after the revocation of the rules, the regulator must vary the permit so as to—

(a) remove the standard rules term, and

(b) include such alternative conditions as it considers appropriate.

(4) In this regulation, "standard rules term" means a term of the type mentioned in regulation 27(2).

Commencement

Pt 2(4) reg. 30(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(4) reg. 30(1)-(4): England, Wales

CHAPTER 5

Appeals in relation to environmental permits

Law In Force

31.— Appeals to an appropriate authority

(1) Subject to paragraphs (2) and (3), the following persons may appeal to the appropriate authority—

(a) a person whose application is refused;

(b) a person who is aggrieved by a decision to impose an environmental permit condition following that person's application;

(c) a person who is aggrieved by a decision to impose a condition on an environmental permit held by that person—

(i) as a result of a regulator-initiated variation, or

(ii) to take account of the partial transfer, partial revocation or partial surrender of that environmental permit;

(d) a person who is aggrieved by the deemed withdrawal under paragraph 4(2) of Part 1 of Schedule 5 of that person's duly-made application;

(e) a person who is aggrieved by a decision relating to an environmental permit held by that person not to authorise the closure procedure mentioned in—

(i) Article 13 of the Landfill Directive after a request referred to in Article 13(a)(ii) of that Directive, or

(ii) Article 12 of the Mining Waste Directive after a request referred to in Article 12(2)(b) of that Directive;

(f) a person on whom an enforcement notice, a revocation notice, suspension notice, prohibition notice, landfill closure notice, mining waste facility closure notice, flood risk activity emergency works notice, flood risk activity notice of intent or flood risk activity remediation notice is served.

(2) Paragraph (1) does not apply where—

(a) the relevant decision or notice implements a direction of the appropriate authority given under—

(i) regulation 62(1),

(ii) regulation 63(1) or (6), or

(iii) paragraph (6) of this regulation, or

(b) an application for the grant or variation of an environmental permit in relation to a Category A mining waste facility that is an existing mining waste facility is refused pursuant to paragraph 14(2) of Schedule 20.

(3) Paragraph (1)(f) does not apply to the extent that a revocation notice or suspension notice is served because of a failure to pay a charge prescribed in a scheme made under regulation 66(1) in respect of the subsistence of an environmental permit.

(4) On the determination of an appeal in respect of a notice, the appropriate authority—

(a) may quash or affirm the notice, and

(b) if it affirms the notice, may affirm it with or without modifications.

(5) When determining an appeal in respect of a decision, the appropriate authority has the same powers as the regulator had when making the decision.

(6) On the determination of an appeal in respect of a decision, unless the appropriate authority affirms the decision the authority must direct the regulator to give effect to its determination when sending a copy of it to the regulator under paragraph 6(2)(a) of Schedule 6.

(7) Except as otherwise provided by this regulation—

(a) an appeal does not have the effect of suspending a decision or notice; but

(b) if an appeal is brought against a revocation notice, the notice does not take effect until the final determination or the withdrawal of the appeal.

(8) Subject to paragraph (11), paragraph (7)(b) does not apply if the revocation notice—

(a) relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone water discharge activity, and

(b) states that, in the opinion of the regulator, the revocation is necessary for the purpose of preventing or, where that is not practicable, minimising, pollution.

(9) If an appeal is brought under paragraph (1)(c)(i) in respect of a decision to impose a condition on an environmental permit in relation to a stand-alone water discharge activity, the imposition of the environmental permit condition does not take effect, subject to paragraphs (10) and (11), until the final determination or the withdrawal of the appeal.

(10) Paragraph (9) does not apply if the notice effecting the decision includes a statement that, in the opinion of the regulator, the imposition of the condition is necessary for the purpose of preventing or, where that is not practicable, minimising, pollution.

(11) If the appropriate authority, on the application of the appellant, determines that the regulator acted unreasonably in excluding the application of paragraph (7)(b) or (9), then—

(a) if the appeal is still pending at the end of the day on which the determination is made, paragraph (7)(b) or (9) applies to the decision or notice from the end of that day,

(b) the appellant is entitled to recover compensation from the regulator in respect of any loss suffered in consequence of that exclusion, and

(c) any dispute as to a person's entitlement to such compensation or as to the amount of it is to be determined by a single arbitrator appointed—

(i) by agreement between the parties to the dispute, or

(ii) in the absence of agreement, by the appropriate authority.

(12) Schedule 6 (appeals to the appropriate authority) has effect in relation to the making and determination of appeals under this regulation.

(13) In this regulation—

"application" has the meaning given in paragraph 1 of Part 1 of Schedule 5;

"person" includes a person to whom an environmental permit is transferred after—

(a) an application or a decision mentioned in paragraph (1) is made, or

(b) a notice mentioned in that paragraph is served.

Commencement

Pt 2(5) reg. 31(1)-(13) definition of "person" (b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 2(5) reg. 31(1)-(13) definition of "person" (b): England, Wales

PART 3

Discharge of functions in relation to a regulated facility

Law In Force

32.— Discharge of functions

(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 **[** and mobile medium combustion plant **]** [1] —

(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 mobile medium combustion plant **]** [2] , or

(ii) if no permit has been granted, the appropriate agency in whose area **[** that waste mobile plant or mobile medium combustion plant **]** [3] is first intended to be operated.

(3) Paragraph (4) applies—

(a) where by virtue of paragraph (2) functions in relation to waste mobile plant **[** or mobile medium combustion plant **]** [4] 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 **[** or mobile medium combustion plant **]** [4] 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 22] [5] are exercisable in relation to the waste mobile plant [or mobile medium combustion plant] [6] referred to in paragraph (3) by both the Agency and the NRBW.

(5) [Subject to paragraph (5A), functions] [7] 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 [but not, from the transfer date, in respect of any medium combustion plant or specified generator, in so far as they are carried on at the installation] [8] ;

(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;

[(v) from the transfer date, a medium combustion plant or specified generator;] [9]

(c) a small waste incineration plant;

(d) a solvent emission activity.

[(5A) In the case of a Part B installation—

(a) where the only activity carried on at that installation is a medium combustion plant or a specified generator, or both, and

(b) which has been authorised by an environmental permit granted by a local authority before the transfer date,

the permit is deemed to have been granted by the appropriate agency immediately before the transfer date.

(5B) Where paragraph (5A) applies—

(a) anything (including, without limitation, legal proceedings) which, at the transfer date, is in the process of being done by a local authority in exercise of, or in connection with, a function that is being transferred may be continued by or in relation to the appropriate agency;

(b) anything done by or in relation to a local authority before the transfer date in the exercise of, or in connection with, a function that is being transferred is, so far as is required for continuing its effect on and after that date, to have effect as if done by or in relation to the appropriate agency;

(c) any reference to a local authority (and any reference which is to be read as a reference to a local authority) in any document constituting or relating to anything to which the provisions of paragraph (5A) apply, is so far as it is required for giving effect to those provisions, to be treated as a reference to the appropriate agency.

(5C) In this regulation—

(a) any reference to a medium combustion plant or to a specified generator includes any directly associated activity (as defined in paragraph 1(2) of Part 1 of Schedule 1) that, but for that medium combustion plant or specified generator, would not form part of an installation;

(b) "transfer date" means—

(i) in relation to a medium combustion plant, the date specified in paragraph 1(a) or (b) of Schedule 25A, as appropriate,
(ii) in relation to a specified generator, the "permitting date" described in paragraph 3(2) of Schedule 25B.

] [10]

(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.

Notes

1 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(a)(i) (January 30, 2018)

2 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(a)(ii) (January 30, 2018)

3 Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(a)(iii) (January 30, 2018)

4 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(b) (January 30, 2018)

5 Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(c)(i) (January 30, 2018)

6 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(c)(ii) (January 30, 2018)

7 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(d)(i) (January 30, 2018)

8 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(d)(ii) (January 30, 2018)

9 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(d)(iii) (January 30, 2018)

10 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.10(e) (January 30, 2018)

Commencement

Pt 3 reg. 32(1)-(8): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 3 reg. 32(1)-(8): England, Wales

Law In Force

33.— Direction to a regulator: discharge of functions by a different regulator

(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.

Commencement

Pt 3 reg. 33(1)-(8) definition of "local authority functions": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 3 reg. 33(1)-(8) definition of "local authority functions": England, Wales

Law In Force

34.— Review of environmental permits and inspection of regulated facilities

(1) The regulator must periodically review environmental permits.

(2) The regulator must make appropriate periodic inspections of regulated facilities.

Commencement

Pt 3 reg. 34(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 3 reg. 34(1)-(2): England, Wales

Law In Force With Amendments Pending

35.— Specific provisions applying to environmental permits

(1) [Schedules 7 to 25B] [1] 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 25B] [1] requires an environmental permit, the requirements of that Schedule apply in relation to that regulated facility.

Notes

[1] Word substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.11 (January 30, 2018)

Amendments Pending

Pt 3 reg. 35(2): word substituted by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154, Pt 2 reg. 4(b) (February 28, 2026: substitution has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Pt 3 reg. 35(1): word substituted by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154, Pt 2 reg. 4(a) (February 28, 2026: substitution has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Commencement

Pt 3 reg. 35(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 3 reg. 35(1)-(2): England, Wales

PART 4

Enforcement and offences

Law In Force

36.— Enforcement notices

(1) If the regulator considers that an operator has contravened, is contravening, or is likely to contravene an environmental permit condition, the regulator may serve a notice on the operator.

(2) The notice must—

(a) state the regulator's view under paragraph (1),

(b) specify the matters constituting the contravention or making a contravention likely,

(c) specify the steps that must be taken to remedy the contravention or to ensure that the likely contravention does not occur, and

(d) specify the period within which those steps must be taken.

(3) Steps that may be specified in the notice include steps—

(a) to make the operation of a regulated facility comply with the environmental permit conditions, and

(b) to remedy the environmental effects caused by the contravention.

(4) In paragraph (3)(b) "environmental effects" means—

(a) in relation to a flood risk activity—

(i) flooding or risk of flooding;

(ii) detrimental impact on drainage or risk of detrimental impact on drainage;

(iii) harm to the environment or risk of harm to the environment;

(b) in relation to any other class of regulated facility, the effects of pollution.

(5) In the case of a regulated facility to which Schedule 7, 13 or 14 applies, if the regulator considers that an incident or accident significantly affecting the environment has occurred as the result of the operation of that regulated facility, the regulator may serve a notice on the operator of that facility.

(6) A notice served under paragraph (5) must—

(a) specify the measures necessary to limit the environmental consequences of the incident or accident, and

(b) specify the measures necessary to prevent further incidents or accidents.

(7) The regulator may withdraw a notice under this regulation at any time by further notice served on the operator.

Commencement

Pt 4 reg. 36(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 36(1)-(7): England, Wales

Law In Force

37.— Suspension notices

(1) The regulator may suspend an environmental permit by serving a notice (a "suspension notice") on the operator under this regulation.

(2) If the regulator considers that the operation of a regulated facility under an environmental permit involves a risk of serious pollution or, in the case of a flood risk activity, a risk specified in paragraph (3), it may serve a suspension notice on the operator.

(3) The following are risks specified for the purposes of paragraph (2)—

(a) risk of serious flooding;

(b) risk of serious detrimental impact on drainage;

(c) risk of serious harm to the environment.

(4) Paragraph (2) applies whether or not the manner of operating the regulated facility which involves the risk is subject to or contravenes an environmental permit condition.

(5) If the regulator considers that the manner of operating a regulated facility contravenes an environmental permit condition, and that such contravention involves a risk of pollution or, in the case of a flood risk activity, a risk specified in paragraph (6), it may serve a suspension notice on the operator.

(6) The following are risks specified for the purposes of paragraph (5)—

(a) risk of flooding;

(b) risk of detrimental impact on drainage;

(c) risk of harm to the environment.

(7) A suspension notice served for the purpose of paragraph (2) or (5) must—

(a) specify—

(i) the risk mentioned in paragraph (2) or (5),

(ii) the steps that must be taken to remove that risk,

(iii) in a case where paragraph (5) applies, the matters constituting the contravention mentioned in that paragraph,

(iv) in a case where paragraph (5) applies, the steps that must be taken to remedy that contravention, and

(v) the period within which the steps mentioned in paragraph (ii) or (iv) must be taken,

(b) state that the environmental permit ceases to have effect to the extent specified in the notice until the notice is withdrawn, and

(c) if the environmental permit continues to authorise the operation of a regulated facility, state any steps (in addition to those already required to be taken by the environmental permit conditions) that are to be taken when operating that regulated facility.

(8) The regulator may suspend an environmental permit under regulation 66(5) by serving a suspension notice on the operator.

(9) A suspension notice served for the purpose of paragraph (8) must—

(a) specify the reason for the suspension,

(b) state the sum payable by the operator and the period within which it is to be paid, and

(c) state that the environmental permit ceases to have effect to the extent specified in the notice until the notice is withdrawn.

(10) If a suspension notice is served, the environmental permit ceases to have effect to the extent stated in the notice.

(11) Where a suspension notice has the effect of preventing waste of a specified description being accepted at a regulated facility, the notice may require the operator of that facility to display

appropriate signs at such places as may be specified in the notice, informing the public that no further waste of a specified description may be accepted at that facility.

(12) The regulator—

(a) may withdraw a suspension notice at any time by further notice served on the operator, and

(b) must withdraw a notice when satisfied that the steps specified in it have been taken.

Commencement

Pt 4 reg. 37(1)-(12)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 37(1)-(12)(b): England, Wales

Law In Force

38.— Offences

(1) It is an offence for a person to—

(a) contravene regulation 12(1), or

(b) knowingly cause or knowingly permit the contravention of regulation 12(1)(a).

(2) It is an offence for a person to fail to comply with or to contravene an environmental permit condition.

[(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). **]** [1]

(3) It is an offence for a person to fail to comply with the requirements of an enforcement notice or of a prohibition notice, suspension notice, landfill closure notice, mining waste facility closure notice, flood risk activity emergency works notice or flood risk activity remediation notice.

(4) It is an offence for a person—

(a) to fail to comply with a notice under regulation 61(1) requiring the provision of information, without reasonable excuse;

(b) to make a statement which the person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

(i) in purported compliance with a requirement to provide information imposed by or under a provision of these Regulations,

(ii) for the purpose of obtaining the grant of an environmental permit to any person, or the variation, transfer in whole or in part, or surrender in whole or in part of an environmental permit, or

(iii) for the purpose of obtaining, renewing or amending the registration of an exempt facility;

(c) intentionally to make a false entry in a record required to be kept under an environmental permit condition;

(d) with intent to deceive—

(i) to forge or use a document issued or authorised to be issued or required for any purpose under an environmental permit condition, or
(ii) to make or have in the person's possession a document so closely resembling such a document as to be likely to deceive.

(5) It is an offence for an establishment or undertaking to—
(a) fail to comply with paragraph 17(3) or (4) of Schedule 2, or
(b) intentionally make a false entry in a record required to be kept under that paragraph.

(6) If an offence committed by a person under this regulation is due to the act or default of some other person, that other person is also guilty of the offence and liable to be proceeded against and punished accordingly, whether or not proceedings for the offence are taken against the first-mentioned person.

Notes

[1] Added by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(2) (April 7, 2019)

Commencement

Pt 4 reg. 38(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 38(1)-(6): England, Wales

Law In Force

39.— Penalties and enforcement undertakings

(1) Subject to paragraph (2), a person guilty of an offence under regulation 38(1), (2) or (3) is liable—
(a) on summary conviction to a fine or imprisonment for a term not exceeding [the general limit in a magistrates' court][1], or to both;
(b) on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years, or to both.

(2) A person guilty of offence under regulation 38(1), (2) or (3) in respect of a flood risk activity is liable—
(a) on summary conviction to a fine or imprisonment for a term not exceeding [the general limit in a magistrates' court][1], or to both;
(b) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or both.

(3) In relation to an offence committed before [2nd May 2022][2], paragraphs (1)(a) and (2)(a) have effect as if for [“the general limit in a magistrates' court”][1] there were substituted “6 months”.

(4) A person guilty of an offence under regulation 38(4) is liable—
(a) on summary conviction to a fine;
(b) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.

(5) An establishment or undertaking guilty of an offence under regulation 38(5) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) Schedule 26 (enforcement undertakings) has effect.

[(7) Schedule 26A (Variable monetary penalties (England)) has effect. **]** [3]

Notes

[1] Words substituted by Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023/149 Sch.1(2) para.1 (February 7, 2023 at 12.00)

[2] Words substituted by Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022/500 Sch.1(2) para.1 (April 28, 2022)

[3] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 reg.3 (December 1, 2023)

Commencement

Pt 4 reg. 39(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 39(1)-(7): England, Wales

Law In Force

40.— Defences

(1) It is a defence for a person charged with an offence under regulation 38(1), (2) or (3) to prove that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

(a) the person took all such steps as were reasonably practicable in the circumstances for minimising pollution, and

(b) particulars of the acts were furnished to the regulator as soon as reasonably practicable after they were done.

(2) A person who knowingly permits a water discharge activity or groundwater activity where the discharge is water from an abandoned mine or an abandoned part of a mine is not guilty of an offence under regulation 38(1) unless—

(a) the person is the owner or former operator of the mine or that part of it, and

(b) the mine or the part of the mine was abandoned after 31st December 1999.

(3) In paragraph (2), "abandoned" , in relation to a mine, and "mine" have the meaning given in section 91A of the 1991 Act[1] .

Notes

[1] Section 91A was inserted by section 58 of the 1995 Act.

Commencement

Pt 4 reg. 40(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 40(1)-(3): England, Wales

Law In Force

41.— Offences by bodies corporate

(1) If an offence committed under these Regulations by a body corporate is proved—

(a) to have been committed with the consent or connivance of an officer, or

(b) to be attributable to any neglect on the part of an officer,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(3) In paragraph (1), "officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

Commencement

Pt 4 reg. 41(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 41(1)-(3): England, Wales

Law In Force

42. Enforcement by the High Court

The regulator may take proceedings in the High Court for the purpose of securing compliance with an enforcement notice, suspension notice, prohibition notice, landfill closure notice, mining waste facility closure notice, flood risk activity emergency works notice or flood risk activity remediation notice (whether or not it has taken other steps for that purpose).

Commencement

Pt 4 reg. 42: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 42: England, Wales

Law In Force

43. Admissibility of evidence

Where, pursuant to an environmental permit granted by a local authority, an entry is required to be made in any record as to the observance of a condition of the environmental permit and the entry has not been made, that fact is admissible as evidence that the condition has not been observed.

Commencement

Pt 4 reg. 43: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 43: England, Wales

Law In Force

44.— Power of court to order cause of offence to be remedied

(1) This regulation applies where a person is convicted of an offence under regulation 38(1), (2) or (3) in respect of a matter which appears to the court to be a matter which it is in the person's power to remedy.

(2) In addition to or instead of a punishment imposed under regulation 39, the court may order the person to take such steps for remedying the matter within such period as may be specified in the order.

(3) The period may be extended, or further extended, by order of the court on an application made before the end of the period or the extended period, as the case may be.

(4) If a person is ordered to remedy a matter, that person is not liable under regulation 38 in respect of that matter during the period or the extended period.

Commencement

Pt 4 reg. 44(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 4 reg. 44(1)-(4): England, Wales

PART 5

Public registers

Law In Force

45. Interpretation of this Part

In this Part—

"final confidentiality decision" means—

(a) a determination under regulation 50, or

(b) the determination or withdrawal of an appeal in relation to a determination under regulation 50;

"the information subject" means the person to whom information relates;

"objection notice" means a notice given under regulation 48(1)(b).

Commencement

Pt 5 reg. 45 definition of "final confidentiality decision"- definition of "objection notice": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 45 definition of "final confidentiality decision"- definition of "objection notice": England, Wales

Law In Force

46.— Duty of the regulator to maintain a public register

(1) Subject to regulations 47 and 48, the regulator must maintain a register (a "public register") containing the information in paragraph 1 of Schedule 27 (public registers).

(2) Nothing in paragraph (1) requires a public register to contain information relating to criminal proceedings, or anything which is the subject matter of criminal proceedings, before those proceedings are finally disposed of.

(3) In paragraph (2), "criminal proceedings" includes prospective criminal proceedings.

(4) The regulator must enter information on its public register as soon as reasonably practicable after it comes within the regulator's possession.

(5) Where information of any description is excluded from any public register under regulation 48, a statement must be entered on the register indicating the existence of information of that description.

(6) The regulator must—

(a) make its public register available for public inspection at all reasonable times, free of charge, and

(b) enable members of the public to obtain copies of entries on its public register on payment of a reasonable charge.

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

Commencement

Pt 5 reg. 46(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 46(1)-(7): England, Wales

Law In Force

47.— Exclusion from public registers of information affecting national security

(1) The appropriate authority may direct the regulator that in the interests of national security specified information or information of a specified description must be excluded from a public register.

(2) The regulator must notify the appropriate authority of any information (other than information relating to a radioactive substances activity) that it excludes from a public register pursuant to such a direction.

(3) The appropriate authority may direct the regulator that in the interests of national security information of a specified description—

(a) must be referred to the authority for its determination as to whether or not the information may be included on a public register, and

(b) must not be included on a public register unless the appropriate authority determines that it may be included.

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

(5) A notice under paragraph (4) must specify the information and indicate its apparent nature.

(6) A person giving a notice under paragraph (4) must at the same time notify the regulator.

(7) The regulator must not include information notified under paragraph (4) on a public register unless the appropriate authority determines that it may be included.

Commencement

Pt 5 reg. 47(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 47(1)-(7): England, Wales

Law In Force

48.— Exclusion from public registers of confidential information

(1) The regulator must exclude information from a public register, unless a condition in paragraph (2) is met, if it—

(a) considers that the information may be confidential information, or

(b) receives notice from the information subject which—

(i) states that the information subject considers the information is confidential information, and

(ii) gives reasons for that view.

(2) The conditions are that—

(a) in relation to paragraph (1)(a), the regulator has given a notice under regulation 49(1) and the information subject has given notice of consent under regulation 49(2)(a);

(b) in relation to paragraph (1)(a) or (b)—

(i) a final confidentiality decision that the information should be included on the register has been made, or
(ii) the appropriate authority has given a direction under regulation 56(1) which requires the information to be included on the register.

Commencement

Pt 5 reg. 48(1)-(2)(b)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 48(1)-(2)(b)(ii): England, Wales

Law In Force

49.— Procedure if the regulator considers that information may be confidential

(1) If the regulator considers that information may be confidential information but has not received an objection notice, it must give notice of that view to the information subject.

(2) The information subject may within 15 working days after the date of the notice given by the regulator under paragraph (1)—

(a) give notice to the regulator consenting to the regulator including the information on the register, or
(b) give an objection notice to the regulator.

Commencement

Pt 5 reg. 49(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 49(1)-(2)(b): England, Wales

Law In Force

50. Duty to determine confidentiality

The regulator must determine whether information must be included on the public register, or excluded from the public register because it is confidential information, if—

(a) having given notice under regulation 49(1), it does not receive notice of consent in accordance with regulation 49(2)(a), or
(b) it receives an objection notice.

Commencement

Pt 5 reg. 50(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 50(a)-(b): England, Wales

Law In Force

51.— Determination of confidentiality

(1) When making a determination under regulation 50, the regulator must comply with this regulation.

(2) In making the determination, the regulator must—

(a) take any reasons given in an objection notice into account,

(b) apply a presumption in favour of including the information on the public register, and

(c) determine to exclude the information from the public register if it considers that—

(i) the information is commercial or industrial information,

(ii) its confidentiality is provided by law to protect a legitimate economic interest, and

(iii) in all the circumstances, the public interest in maintaining the confidentiality of the information outweighs the public interest in including it on the register.

(3) But, to the extent that information relates to emissions, the regulator must determine to include it on the public register.

(4) Nothing in this regulation authorises the exclusion from the public register of information contained in or otherwise held with other information excluded from the register unless the information is not reasonably capable of being separated for the purposes of inclusion on the register.

Commencement

Pt 5 reg. 51(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 51(1)-(4): England, Wales

Law In Force

52.— Procedure following a determination

(1) The regulator must give notice of its determination, the reasons for it and the details of the appeals procedure to the information subject within—

(a) a period of 20 working days beginning with the date its duty under regulation 50 arises, or

(b) such longer period as it agrees with the information subject.

(2) If the regulator fails to give notice under paragraph (1) within the period required by that paragraph, the information subject may give notice to the regulator of that failure, and on such notice—

(a) the regulator is deemed to have determined that the information must be included on the register, and

(b) the deemed determination is subject to the right of appeal in regulation 53(1).

(3) If the regulator determines that the information must be included on the public register, it must not include the information before the expiry of the period of 15 working days after—

(a) it has given notice of the determination, or
(b) a notice under paragraph (2) resulting in a deemed determination is given,
but must include it after the expiry of that period if notice of appeal has not been given.

Commencement

Pt 5 reg. 52(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 52(1)-(3)(b): England, Wales

Law In Force

53.— Appeals in relation to confidentiality

(1) The information subject may give notice of appeal to the appropriate authority against a determination made under regulation 50 within 15 working days after the regulator has given notice of it.

(2) A notice of appeal must—
(a) be in writing,
(b) include a statement of the grounds of appeal,
(c) state whether the information subject wishes the appeal to be in the form of a hearing or to be disposed of through written representations, and
(d) be copied to the regulator.

(3) If the information subject gives notice of appeal, the regulator must not include the information on the public register before the appeal is decided.

(4) The appropriate authority—
(a) may give the information subject and the regulator an opportunity of appearing before and being heard by a person appointed by it, and
(b) must do so in a case where the notice of appeal states that the information subject wishes the appeal to be in the form of a hearing.

(5) A hearing under paragraph (4) is subject to paragraphs 5(2) to 5(6) and 6 of Schedule 6 (except paragraph 5(3)(c)) as if it were a hearing under paragraph 5(1) of that Schedule, save that "the appellant" is to be read as "the information subject".

Commencement

Pt 5 reg. 53(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 53(1)-(5): England, Wales

Law In Force

54.— Consequences of an appeal

(1) If the appropriate authority allows the appeal, the regulator must exclude the information from the public register.

(2) If the appropriate authority rejects the appeal or the appeal is withdrawn, the regulator must include the information on the public register.

Commencement

Pt 5 reg. 54(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 54(1)-(2): England, Wales

Law In Force

55.— Reconsideration of confidentiality

(1) The regulator must cease to treat information as confidential information at the expiry of—

(a) a period of 4 years after the final confidentiality decision, or

(b) such shorter period as is specified in that decision.

(2) But if the person to whom the information relates gives notice to the regulator before the expiry of that period that the person considers that the information remains confidential information—

(a) regulation 48 applies in respect of the information and the regulator must treat the notice as an objection notice, and

(b) regulations 50 to 54 apply notwithstanding any previous compliance with those regulations in relation to the information.

Commencement

Pt 5 reg. 55(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 55(1)-(2)(b): England, Wales

Law In Force

56.— Directions of the appropriate authority in relation to confidentiality

(1) The appropriate authority may direct the regulator that specified information, or information of a specified description, must be included on the public register even though it is confidential information.

(2) The appropriate authority must not give a direction under paragraph (1) unless it considers that the public interest in including such information on the register outweighs the public interest in maintaining its confidentiality.

Commencement

Pt 5 reg. 56(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 5 reg. 56(1)-(2): England, Wales

PART 6

Powers and functions of the regulator and the appropriate authority

Law In Force

57.— Power of the regulator to prevent or remedy pollution

(1) If the regulator considers that a risk of serious pollution exists as a result of the operation of a regulated facility or an exempt facility, it may arrange for steps to be taken to remove that risk.

(2) The regulator may arrange for steps to be taken to remedy the effects of pollution if—

(a) the commission of an offence under regulation 38(1), (2) or (3) causes pollution, or

(b) the regulator suspects that an offence under that regulation is being or has been committed and that pollution is being or has been caused as a result.

(3) If the regulator intends to arrange for steps to be taken under paragraph (2), it must notify the operator of the steps not less than 5 working days before they are taken.

(4) If the regulator arranges for steps to be taken under this regulation, it may recover the cost of taking those steps from the relevant person.

(5) But costs are not recoverable under paragraph (4)—

(a) if the steps referred to in paragraph (1) are taken and the relevant person shows that there was no risk of serious pollution, or

(b) to the extent that the relevant person shows that the costs were unnecessarily incurred by the regulator.

(6) In this regulation, "the relevant person" means—

(a) an operator,

(b) an establishment or undertaking carrying on an exempt waste operation, or

(c) a person carrying on a water discharge activity or groundwater activity.

Commencement

Pt 6 reg. 57(1)-(6)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 57(1)-(6)(c): England, Wales

Law In Force

58.— Power of the regulator to prevent or remedy effects of flood risk activities

(1) If the regulator considers that the carrying on of an exempt flood risk activity or a flood risk activity under an environmental permit involves a risk specified in paragraph (2), it may arrange for steps to be taken to remove that risk.

(2) The following are risks specified for purposes of paragraph (1)—

(a) risk of serious flooding;

(b) risk of serious detrimental impact on drainage;

(c) risk of serious harm to the environment.

(3) If the regulator arranges for steps to be taken under this regulation, it may recover the cost of taking those steps from the operator.

(4) But costs are not recoverable under paragraph (3)—

(a) if the steps referred to in paragraph (1) are taken in relation to a risk specified in paragraph (2) and the operator shows there was no such risk, or

(b) to the extent that the operator shows that the costs were unnecessarily incurred by the regulator.

Commencement

Pt 6 reg. 58(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 58(1)-(4)(b): England, Wales

Law In Force

59.— Appropriate agency: notices in relation to emissions to water

(1) This regulation applies to Part A installations for which a local authority is the regulator.

(2) At any time the appropriate agency may give notice to the local authority specifying the emission limit values or the conditions it considers appropriate for preventing or reducing emissions into water from the installation or mobile plant.

(3) If such a notice is issued, the local authority must exercise its functions under these Regulations to ensure the environmental permit for the installation or mobile plant includes—

(a) the emission limit values or conditions specified in the notice, or

(b) such stricter limit values or more onerous conditions as the authority thinks fit.

(4) In this regulation, "emission limit value" means the mass, expressed in terms of specific parameters, concentration or level of an emission, which must not be exceeded during a period of time.

Commencement

Pt 6 reg. 59(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 59(1)-(4): England, Wales

Law In Force

60.— Appropriate agency: public participation statement

(1) The appropriate agency must prepare and publish a statement of its policies for complying with its public participation duties.

(2) In preparing or revising the statement the appropriate agency must consult such persons as it considers are affected by, are likely to be affected by, or have an interest in, the statement.

(3) The appropriate agency must—

(a) keep the statement under review,

(b) revise the statement when it considers necessary, and

(c) publish any revised statement.

(4) The appropriate agency must comply with any published statement when exercising its functions under the public participation provisions.

(5) The duty in paragraph (2) may be satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

(6) In this regulation, "public participation duties" means the duties in the following provisions—

(a) regulation 26;

(b) regulation 29;

(c) paragraphs 6 and 8(2) of Part 1 of Schedule 5.

Commencement

Pt 6 reg. 60(1)-(6)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 60(1)-(6)(c): England, Wales

Law In Force

61.— Power to require the provision of information

(1) For the purposes of discharging its functions under these Regulations, an appropriate authority, regulator, exemption registration authority or exemption authority, by notice served on any person, may require that person to provide such information in such form and within such period as is specified in the notice.

(2) A notice under paragraph (1) may require a person to provide any information on emissions where that requirement is reasonable, including the provision of information—

(a) not in the person's possession, and

(b) which would not usually come into the person's possession.

(3) For the purposes of this regulation the discharge by the appropriate authority of—

(a) an obligation [under [assimilated]2 law]1 , or

(b) an international obligation of the United Kingdom,

must be treated as a function of the authority under these Regulations.

(4) For the purposes of this regulation the compilation of an inventory of emissions (whether or not from a regulated facility) must be treated as a function of the regulator under these Regulations.

Notes

1 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(5) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(b) (February 27, 2025)

Commencement

Pt 6 reg. 61(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 61(1)-(4): England, Wales

Law In Force

62.— Directions to regulators, exemption registration authorities and exemption authorities: general

(1) An appropriate authority may give directions to a regulator, exemption registration authority or exemption authority of a general or specific character with respect to the carrying out of its functions under these Regulations.

(2) Without prejudice to the generality of the power in paragraph (1), a direction may direct the regulator, exemption registration authority or exemption authority to exercise or not to exercise—

(a) specified powers,

(b) its powers in specified circumstances, or

(c) its powers in a specified manner.

(3) Except in an emergency, an appropriate authority may give a direction to the appropriate agency under paragraph (1) only after consultation with the appropriate agency.

(4) The regulator, exemption registration authority or exemption authority must comply with a direction given to it under these Regulations.

Commencement

Pt 6 reg. 62(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 62(1)-(4): England, Wales

Law In Force

63.— Reference of applications to an appropriate authority

(1) An appropriate authority may give directions to a regulator requiring that a particular application or class of application be referred to it for determination.

(2) The regulator must—

(a) inform the applicant of the fact that the application is being referred to the appropriate authority, and

(b) forward to the appropriate authority any representations made in respect of the application.

(3) When an application is referred to an appropriate authority, the appropriate authority—

(a) may afford the applicant and the regulator an opportunity of appearing before and being heard by a person appointed by the appropriate authority, and

(b) must do so in any case where a request is duly made by the applicant or the regulator to be so heard.

(4) A request under paragraph (3)(b) must be made in writing within 15 working days after the day on which the applicant is informed that the application is being referred to the appropriate authority.

(5) A hearing under paragraph (3) is subject to paragraphs 5(2) to (6) and 6 of Schedule 6 (except paragraph 5(3)(c)) as if it were a hearing under paragraph 5(1) of that Schedule with the following modifications—

(a) "the appellant" is to be read as "the applicant";

(b) "the appeal" is to be read as "the application".

(6) On determining an application referred to it under this regulation the appropriate authority must give to the regulator a direction as to whether the regulator is to grant the application and, if so, the conditions that are to be attached to the environmental permit.

(7) In this regulation, "application" means an application—

(a) for the grant of an environmental permit, or

(b) for the variation of an environmental permit.

Commencement

Pt 6 reg. 63(1)-(7)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 63(1)-(7)(b): England, Wales

Law In Force

64.— Directions to the appropriate agency: installations outside the United Kingdom

(1) This regulation applies where an appropriate authority receives information [from a member State] [1] in relation to the operation of an installation outside the United Kingdom which is likely to have a significant negative effect on the environment of England or Wales.

(2) [The] [2] appropriate authority must direct the appropriate agency to take such steps as it considers appropriate to—

(a) bring the information to the attention of persons likely to be affected by the operation of the installation, and

(b) provide them with an opportunity to comment on the information.

[(3) In paragraph (1), "member State" has the meaning given in paragraph 10(4) of Schedule 5.] [3]

Notes

1 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(6)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(6)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(6)(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Pt 6 reg. 64(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 64(1)-(3): England, Wales

Law In Force

65.— Guidance to regulators, exemption registration authorities and exemption authorities

(1) An appropriate authority may issue guidance to a regulator, exemption registration authority or exemption authority with respect to the exercise of its functions under these Regulations.

(2) In the exercise of those functions the regulator, exemption registration authority or exemption authority must have regard to the guidance.

Commencement

Pt 6 reg. 65(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 65(1)-(2): England, Wales

Law In Force

66.— Fees and charges in relation to the exercise of regulator's functions by local authorities

(1) An appropriate authority may make, and from time to time revise, a scheme prescribing—

(a) fees payable to a regulator in respect of applications—

(i) for the grant of an environmental permit,

(ii) for the variation of an environmental permit,

(iii) for the transfer of an environmental permit in whole or in part,

(iv) for the surrender of an environmental permit in whole or in part,

(b) fees payable to a regulator in respect of a regulator-initiated variation, and

(c) charges payable to a regulator in respect of the subsistence of an environmental permit.

(2) A scheme may in particular—

(a) prescribe specific fees and charges or the methods by which they are to be calculated,

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities,

(c) subject to the requirements of these Regulations, provide for the time when, and the manner in which, payments required by the scheme are to be made, and

(d) make such incidental, supplementary and transitional provision as appears necessary or expedient to the appropriate authority.

(3) In making or revising a scheme, so far as practicable the appropriate authority must ensure that the fees and charges payable are sufficient to cover expenditure by a regulator—

(a) in exercising its functions under these Regulations;

(b) in making payment to any person who prepares guidance in relation to an installation or mobile plant that is—

(i) mentioned in regulation 32(5), or

(ii) specified in a direction under regulation 33;

(c) in making payment to the appropriate agency in relation to the exercise of the appropriate agency's functions under regulation 59.

(4) A scheme must provide for the payment of sums by the regulator to the appropriate agency where those sums are related to expenditure by the appropriate agency under regulation 59 or in preparing guidance referred to in paragraph (3)(b).

(5) If a regulator considers that an operator has failed to pay a charge specified in a scheme in respect of the subsistence of the operator's permit, the regulator may revoke or suspend the permit.

(6) A revocation or suspension must be by way of notice served under regulation 22(3) or regulation 37.

(7) In this regulation, "regulator" means a local authority on which functions are conferred by regulation 32 or by a direction under regulation 33.

Commencement

Pt 6 reg. 66(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 66(1)-(7): England, Wales

Law In Force

67.— Plans relating to emissions

(1) Subject to paragraph (3), an appropriate authority may make plans for—

(a) the setting of limits on the total amount, or the total amount in any period, of emissions from all or any description of source, or

(b) the allocation of quotas relating to such emissions.

(2) If the appropriate authority allocates a quota in a plan made under paragraph (1) it may also make a scheme for the trading or other transfer of that quota.

(3) This regulation does not apply to an emission plan or to the Transitional National Plan.

(4) In this regulation—

"emission" means the direct or indirect release of any substance from individual or diffuse sources into the air, water or land;

"emission plan" has the meaning given in the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007 as those Regulations were in force on 31st March 2016[1] ;

"Transitional National Plan" has the meaning given in regulation 2 of the Large Combustion Plants (Transitional National Plan) Regulations 2015.

Notes

[1] The date of 31st March 2016 was the day before S.I. 2007/2325 was revoked by S.I. 2015/1973, with a saving provision in relation to where its provisions were referred to in connection with the definition of terms in other instruments.

Commencement

Pt 6 reg. 67(1)-(4) definition of "Transitional National Plan": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 67(1)-(4) definition of "Transitional National Plan": England, Wales

Law In Force

68.— Consultation in relation to works affecting flood and coastal erosion risks

(1) Before exercising a function relating to a flood risk activity which may affect a flood or coastal erosion risk (within the meaning of the Flood and Water Management Act 2010) in Wales, the Agency must consult the NRBW.

(2) Before exercising a function relating to a flood risk activity which may affect a flood or coastal erosion risk in England, the NRBW must consult the Agency.

Commencement

Pt 6 reg. 68(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 68(1)-(2): England, Wales

Law In Force

69. Functions with respect to flood risk activities

In exercising any function under these Regulations that relates to a flood risk activity, the appropriate agency must have due regard to the interests of fisheries, including sea fisheries.

Commencement

Pt 6 reg. 69: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 6 reg. 69: England, Wales

PART 7

Miscellaneous provisions

CHAPTER 1

Interpretation

Law In Force

70. Interpretation of this Part

In this Part—

"existing" means in force at the relevant time;

"relevant time" means immediately before the coming into force of these Regulations.

Commencement

Pt 7(1) reg. 70 definition of "existing"- definition of "relevant time": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(1) reg. 70 definition of "existing"- definition of "relevant time": England, Wales

CHAPTER 2

Death of sole operator

Law In Force

71.— Death of sole operator

(1) This regulation applies if—

(a) an environmental permit authorising the operation of a regulated facility is held by one individual ("A"), and

(b) A dies.

(2) On the death of A, the environmental permit—

(a) forms part of A's personal estate,

(b) vests in A's personal representatives,

(c) continues to have effect subject to the conditions that applied at the time of A's death, and

(d) must be read as if it contained the following condition—

> "As soon as is practicable after the death of the operator, the personal representatives of the operator must notify the regulator that the environmental permit has vested in them.".

(3) The environmental permit ceases to have effect 6 months after the day on which A dies, unless, by that time—

(a) the permit has been transferred under regulation 21, or

(b) the regulator has received from A's personal representatives a duly-made application under regulation 21(1) for the transfer of the permit, and the application has not been withdrawn or finally determined.

(4) If paragraph (3)(b) applies, the environmental permit continues in effect until the application—

(a) is withdrawn, or

(b) on determination, is refused.

Commencement

Pt 7(2) reg. 71(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(2) reg. 71(1)-(4)(b): England, Wales

CHAPTER 3

Repeal, revocations, saving and amendments

Law In Force

72.— Repeal

(1) The 1993 Act, except for the provisions referred to in paragraph (2), is repealed.

(2) Those provisions are—

(a) paragraph 5 of Schedule 4,

(b) section 49(1) so far as it relates to that paragraph, and
(c) section 51.

Commencement

Pt 7(3) reg. 72(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(3) reg. 72(1)-(2)(c): England, Wales

Law In Force

73.— Revocations

(1) The instruments in Schedule 28 (revocations) are revoked to the extent specified.

(2) In provisions specified as not revoked in Schedule 28, any references to provisions of the 2007 Regulations or the 2010 Regulations are to be read as references to the equivalent provisions of these Regulations.

Commencement

Pt 7(3) reg. 73(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(3) reg. 73(1)-(2): England, Wales

Law In Force

74.— Saving

(1) Despite the revocation of regulation 44 of the End-of-Life Vehicles Regulations 2003[1] by the 2007 Regulations, any modification to a waste management licence that continued in effect under the 2007 Regulations and had effect at the relevant time continues to have effect under these Regulations.

(2) In paragraph (1), "waste management licence" means a licence granted under section 35 of the 1990 Act.

Notes

[1] Amended by S.I. 2007/3538; there are other amending instruments but none is relevant.

Commencement

Pt 7(3) reg. 74(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(3) reg. 74(1)-(2): England, Wales

Law In Force

75. Consequential amendments

Schedule 29 (consequential amendments) has effect.

Commencement

Pt 7(3) reg. 75: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(3) reg. 75: England, Wales

Law In Force

76. Amendment of the Transfrontier Shipment of Waste Regulations 2007

For regulation 16 of the Transfrontier Shipment of Waste Regulations 2007[1], substitute—

> **"16. The Waste (England and Wales) Regulations 2011**
> The reference to a waste management plan in regulation 7 of the Waste (England and Wales) Regulations 2011[2] includes a waste management plan made under this Part.".

Notes

1 Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

2 S.I. 2011/988, to which there are amendments not relevant to these Regulations.

Commencement

Pt 7(3) reg. 76: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(3) reg. 76: England, Wales

CHAPTER 4

Transitional provisions

Law In Force

77.— Transitional provisions: general

(1) Anything being done under the 2010 Regulations at the relevant time is taken as being done under these Regulations.

(2) Anything done under the 2010 Regulations continues to have effect but is taken to have been done under these Regulations on the date on which it was done under the 2010 Regulations, including (but not limited to) the following—

(a) an existing enforcement notice under the 2010 Regulations is taken to be an enforcement notice;

(b) an existing suspension notice under the 2010 Regulations is taken to be a suspension notice;

(c) an existing revocation notice under the 2010 Regulations is taken to be a revocation notice;

(d) an existing landfill closure notice under the 2010 Regulations is taken to be a landfill closure notice;

(e) an existing prohibition notice under the 2010 Regulations is taken to be a prohibition notice;

(f) an application for the grant, variation, transfer or surrender of an environmental permit make under the 2010 Regulations that has not been determined by the relevant time is taken to be made under these Regulations;

(g) a decision made, or deemed to have been made, by a regulator or appropriate authority under the 2010 Regulations is taken to be made under these Regulations;

(h) an existing direction given, or deemed to have been given, to a regulator by the appropriate authority under the 2010 Regulations is taken to be given under these Regulations;

(i) a notification given under the 2010 Regulations that has not taken effect by the relevant time is taken to be given under these Regulations;

(j) an appeal made under the 2010 Regulations that has not been determined by the relevant time is taken to be made under these Regulations, with the notice of appeal taken to be given on the date on which the appeal was made under the 2010 Regulations.

(3) An environmental permit under the 2010 Regulations in force at the relevant time—

(a) becomes an environmental permit authorising the operation of a regulated facility under these Regulations, with references to provisions of the 2007 Regulations or the 2010 Regulations taken to be references to the equivalent provisions of these Regulations, and

(b) has effect subject to any conditions that applied to it at the relevant time.

(4) An appeal may be made under these Regulations against a notice mentioned in paragraph (2)(a) to (e) or a decision mentioned in paragraph (2)(g) if, by the relevant time, the time for making an appeal under the 2010 Regulations had not expired, with the applicable time limit for giving notice of appeal running from the date on which the notice was served, or the decision was made, under the 2010 Regulations.

(5) Despite paragraphs (1) and (2), an exemption under paragraph 17 of Section 2 of Chapter 3 of Part 1 of Schedule 3 of the 2010 Regulations (crushing waste fluorescent tubes (T17)) ceases to have effect.

Commencement

Pt 7(4) reg. 77(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(4) reg. 77(1)-(5): England, Wales

Law In Force

78.— Public registers

(1) Any information that, at the relevant time, was contained in a public register maintained by a regulator under the 2010 Regulations, or was deemed to be information kept on that register, is taken to be information contained in the public register maintained by the regulator under these Regulations.

(2) Any information that, at the relevant time, was within a regulator's possession for the purposes of regulation 46 of the 2010 Regulations but was not entered on a public register under those Regulations is taken to be in the regulator's possession for the purposes of these Regulations and must be entered on the register as soon as reasonably practicable.

(3) Any information excluded from a public register pursuant to an existing direction under regulation 47(1) of the 2010 Regulations is taken to be notified under regulation 47(2) of these Regulations.

Commencement

Pt 7(4) reg. 78(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(4) reg. 78(1)-(3): England, Wales

Law In Force

79. Site plans not required for existing permits etc.

Regulation 14(4) does not apply in relation to a regulated facility to which, at the relevant time, regulation 70 of the 2010 Regulations applied.

Commencement

Pt 7(4) reg. 79: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(4) reg. 79: England, Wales

CHAPTER 5

Review

Law In Force

80.— Review: England

(1) The Secretary of State, in relation to England, must from time to time—

(a) carry out a review of the regulatory provisions in these Regulations, and
(b) publish a report setting out the conclusions of the review.

(2) In carrying out a review of any regulatory provision which implements an obligation in any of the following Directives, the Secretary of State must have regard to how the obligation is implemented in other member States—

(a) the Asbestos Directive,
(b) the Basic Safety Standards Directive,
(c) the Batteries Directive,
(d) the End-of-Life Vehicles Directive,
(e) the Energy Efficiency Directive,
(f) the Groundwater Directive,
(g) **[…]**[1]
(h) the Industrial Emissions Directive,
(i) the Landfill Directive,
[(ai) the Medium Combustion Plant Directive, **]** [2]
(j) the Mining Waste Directive,
(k) PVR I,
(l) PVR II,
(m) the Waste Framework Directive,
(n) the Water Framework Directive, and
(o) the WEEE Directive.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory provisions,
(b) assess the extent to which those objectives are achieved,
(c) assess whether those objectives remain appropriate, and
(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provisions.

(4) The first report under this regulation must be published before the end of December 2019.

(5) Subsequent reports under this regulation must be published at intervals not exceeding 5 years.

(6) In this regulation, "regulatory provisions" has the meaning given in section 32(4) of the Small Business, Enterprise and Employment Act 2015.

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 reg.5 (May 2, 2018)

[2] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.12 (January 30, 2018)

Commencement

Pt 7(5) reg. 80(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Pt 7(5) reg. 80(1)-(6): England, Wales

Law In Force

Thérèse Coffey
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

11th December 2016

Lesley Griffiths
Cabinet Secretary for the Environment and Rural Affairs
One of the Welsh Ministers

7th December 2016

SCHEDULE 1

Activities, installations and mobile plant

Regulation 2(1)

PART 1

Interpretation and application: general

Law In Force

1.— Interpretation

(1) In this Schedule—

"activity" means, subject to this Part, an activity listed in Part 2 of this Schedule;

"installation" means—

(a) a stationary technical unit where one or more activities are carried on, and

(b) any other location on the same site where any other directly associated activities are carried on,

and references to an installation include references to part of an installation;

"net rated thermal input" means the rate at which fuel can be burned at the maximum continuous rating of the appliance, multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

(2) In sub-paragraph (1), "directly associated activity" means an operation which—

(a) has a technical connection with the activity,

(b) is carried on on the same site as the activity, and

(c) could have an effect on pollution.

Commencement

Sch. 1(1) para. 1(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(1) para. 1(1)-(2)(c): England, Wales

Law In Force

2.— Activities falling within more than one Part description

(1) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(1) and a description in Part A(2), that activity must be regarded as falling only within that description which fits it most aptly.

(2) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(1) and a description in Part B, that activity must be regarded as falling only within the description in Part A(1).

(3) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(2) and a description in Part B, that activity must be regarded as falling only within the description in Part A(2).

Commencement

Sch. 1(1) para. 2(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(1) para. 2(1)-(3): England, Wales

Law In Force

3. Application of activities falling within Part 2

An activity is not to be taken to be an activity falling within Part 2 of this Schedule if it is—

(a) carried on in a working museum to demonstrate an industrial activity of historic interest,

(b) carried on for educational purposes in a school as defined in section 4(1) of the Education Act 1996[1] ,

(c) carried on at an installation, other than a waste incineration plant or a waste co-incineration plant, or by means of Part B mobile plant, where the installation or plant is used solely for research, development or testing of new products or processes,

(d) the running on or within an aircraft, hovercraft, mechanically propelled road vehicle, railway locomotive or ship or other vessel of an engine which propels or provides electricity for it,

(e) the running of an engine in order to test it before it is installed or in the course of its development,

(f) carried on as a domestic activity in connection with a private dwelling, or

(g) carried on at a waste incineration plant or a waste co-incineration plant used for research, development and testing in order to improve the incineration process and which treats less than 50 tonnes of waste per year.

Notes

[1] Section 4(1) was substituted by section 51 of the Education Act 1997 (c. 44) and amended by Part 3 of Schedule 22 to the Education Act 2002 (c. 32), section 95(1) and (2) of the Childcare Act 2006 (c. 21), and paragraph 9(1) and (2)(a) of Schedule 13 to the Education Act 2011 (c. 21).

Commencement

Sch. 1(1) para. 3(a)-(g): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(1) para. 3(a)-(g): England, Wales

Law In Force

4. Application of thresholds for Part A(1) or Part A(2) activities

For the purposes of assessing whether an activity is above any of the thresholds for any Part A(1) activity or Part A(2) activity, where several activities falling under the same description of activity containing a threshold are operated in the same installation, the capacities of those activities must be added together.

Commencement

Sch. 1(1) para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(1) para. 4: England, Wales

Law In Force

5.— Operation below thresholds: effect on the installation

(1) Where an operator is authorised by an environmental permit to operate an installation at which Part A(1) activities, Part A(2) activities or Part B activities which are described in Part 2 of this Schedule by reference to a threshold (whether in terms of capacity or otherwise) are carried on, the installation does not cease to be a Part A(1) installation, a Part A(2) installation or a Part B installation, as the case may be, by virtue of the installation being operated below the relevant threshold unless the permit ceases to have effect in accordance with these Regulations.

Commencement

Sch. 1(1) para. 5(1): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(1) para. 5(1): England, Wales

Law In Force

6.— Application of Part B activities: releases into the air

(1) Subject to sub-paragraph (2), an activity is not to be taken to be a Part B activity within Part 2 of this Schedule if it cannot result in the release into the air of a substance listed in sub-paragraph (3) or there is no likelihood that it will result in the release into the air of any such substance except in a quantity which is so trivial that it is incapable of causing pollution or its capacity to cause pollution is insignificant.

(2) Sub-paragraph (1) does not apply to an activity which may give rise to an offensive smell noticeable outside the site where the activity is carried on.

(3) References to, or to the release into the air of, a substance listed in this paragraph are to any of the following substances—

(a) oxides of sulphur and other sulphur compounds;
(b) oxides of nitrogen and other nitrogen compounds;
(c) oxides of carbon;
(d) organic compounds and partial oxidation products;
(e) metals, metalloids and their compounds;
(f) asbestos (suspended particulate matter and fibres), glass fibres and mineral fibres;
(g) halogens and their compounds;
(h) phosphorus and its compounds;
(i) particulate matter.

Commencement

Sch. 1(1) para. 6(1)-(3)(i): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(1) para. 6(1)-(3)(i): England, Wales

Law In Force

7.— References to releases into water

(1) References in Part 2 of this Schedule to a substance, or to the release into water of a substance, listed in this sub-paragraph or to its release in a quantity which, in any 12-month period, is greater than the background quantity by an amount specified in this sub-paragraph are references to the following substances and amounts—

Table

Substance	*Amount greater than the background quantity (in grams) in any 12-month period*
Mercury and its compounds	200 (expressed as metal)
Cadmium and its compounds	1,000 (expressed as metal)
All isomers of hexachlorocyclohexane	20
All isomers of DDT	5
Pentachlorophenol and its compounds	350 (expressed as PCP)
Hexachlorobenzene	5
Hexachlorobutadiene	20
Aldrin	2
Dieldrin	2
Endrin	1
Polychlorinated Biphenyls	1
Dichlorvos	0.2
1, 2-Dichloroethane	2,000
All isomers of trichlorobenzene	75
Atrazine	350[1]
Simazine	350[1]
Tributyltin compounds	4 (expressed as TBT)
Triphenyltin compounds	4 (expressed as TPT)
Trifluralin	20
Fenitrothion	2
Azinphos-methyl	2
Malathion	2
Endosulfan	0.5

(2) In sub-paragraph (1), "background quantity" means, in relation to the release of a substance resulting from an activity, such quantity of that substance as is present in—

(a) water supplied to the site where the activity is carried on,

(b) water abstracted for use in the activity, and

(c) precipitation onto the site on which the activity is carried on.

Notes

[1] Where both Atrazine and Simazine are released, the figure for both substances in aggregate is 350 grams.

Commencement

Sch. 1(1) para. 7(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(1) para. 7(1)-(2)(c): England, Wales

Law In Force

8.— References to certain substances

(1) References in Part 2 of this Schedule to a substance listed in this paragraph are to any of the following substances—

(a) alkali metals and their oxides and alkaline earth metals and their oxides;
(b) organic solvents;
(c) azides;
(d) halogens and their covalent compounds;
(e) metal carbonyls;
(f) organo-metallic compounds;
(g) oxidising agents;
(h) polychlorinated dibenzofuran and any congener thereof;
(i) polychlorinated dibenzo-p-dioxin and any congener thereof;
(j) polyhalogenated biphenyls, terphenyls and naphthalenes;
(k) phosphorus;
(l) pesticides.

(2) In sub-paragraph (1), "pesticide" means any chemical substance or preparation prepared or used for destroying any pest, including those used for—

(a) protecting plants or wood or other plant products from harmful organisms,
(b) regulating the growth of plants,
(c) giving protection against harmful creatures or rendering such creatures harmless,
(d) controlling organisms with harmful or unwanted effects on water systems, buildings or other structures, or on manufactured products, or
(e) protecting animals against ectoparasites.

Commencement

Sch. 1(1) para. 8(1)-(2)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(1) para. 8(1)-(2)(e): England, Wales

PART 2

Activities

CHAPTER 1

SECTION 1.1 Combustion activities

Part A(1)

Law In Force

(a) Burning any fuel in an appliance with a rated thermal input of 50 or more megawatts.

Commencement

Sch. 1(2)(1)(1) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 1(a): England, Wales

Interpretation and application of Part A(1)

Law In Force

1.
For the purpose of Part A(1) of this Section, where two or more appliances with an aggregate rated thermal input of 50 or more megawatts are operated on the same site by the same operator, those appliances must be treated as a single appliance with a rated thermal input of 50 or more megawatts.

Commencement

Sch. 1(2)(1)(1) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 1: England, Wales

Law In Force

2.
Nothing in this Part of this Section applies to burning fuels in an appliance installed on an offshore platform situated on, above or below those parts of the sea adjacent to England and Wales from the low water mark to the seaward baseline of the United Kingdom territorial sea.

Commencement

Sch. 1(2)(1)(1) para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 2: England, Wales

Law In Force

3.

In paragraph 2, "offshore platform" means any fixed or floating structure which—

(a) is used for the purposes of or in connection with the production of petroleum, and

(b) in the case of a floating structure, is maintained on a station during the course of production,

but does not include any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs.

Commencement

Sch. 1(2)(1)(1) para. 3(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 3(a)-(b): England, Wales

Law In Force

4.

In paragraph 3, "petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

Commencement

Sch. 1(2)(1)(1) para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 4: England, Wales

Law In Force

5.

Nothing in this Part of this Section applies to burning fuels in an appliance installed on a gas storage or unloading platform as defined in regulation 2 of the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013.

Commencement

Sch. 1(2)(1)(1) para. 5: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 5: England, Wales

Part B

Law In Force

Unless falling within Part A(1) of this Section—

(a) Burning any fuel in—

(i) a boiler,

(ii) a furnace,

(iii) a gas turbine, or

(iv) a compression ignition engine,

with a net rated thermal input of 20 or more megawatts, but a rated thermal input of less than 50 megawatts.

(b) Burning any waste oil in an appliance with a rated thermal input of less than 3 megawatts.

Commencement

Sch. 1(2)(1)(1) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 1(a)-(b): England, Wales

Interpretation and application of Part B

Law In Force

1.

Part B does not apply to any activity falling within Part A(1) of Section 5.1.

Commencement

Sch. 1(2)(1)(1) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 1: England, Wales

Law In Force

2.

For the purpose of paragraph (a) of Part B of this Section, where two or more appliances with an aggregate net rated thermal input of 20 or more megawatts are operated on the same site by the same operator, those appliances must be treated as a single appliance with a net rated thermal input of 20 or more megawatts.

Commencement

Sch. 1(2)(1)(1) para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1) para. 2: England, Wales

SECTION 1.2 Gasification, liquefaction and refining activities

Part A(1)

Law In Force

(a) Refining gas where this is likely to involve the use of 1,000 or more tonnes of gas in any 12-month period.
(b) Operating coke ovens.
(c) Gasification or liquefaction of—
(i) coal, or
(ii) other fuels in installations with a total rated thermal input of 20 or more megawatts.
(d) Refining mineral oils.
(e) The loading, unloading, handling or storage of, or the physical, chemical or thermal treatment of—
(i) crude oil;
(ii) stabilised crude petroleum.
(f) Activities involving the pyrolysis, carbonisation, distillation, partial oxidation or other heat treatment of—
(i) coal (other than the drying of coal),
(ii) lignite,
(iii) oil,
(iv) other carbonaceous material, or
(v) mixtures of any of these,
otherwise than with a view to making charcoal.
(g) Activities involving the liquefaction or gasification of other carbonaceous material.

Commencement

Sch. 1(2)(1)(1a) para. 1(a)-(g): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 1(a)-(g): England, Wales

Interpretation and application of Part A(1)

Law In Force

1.
Part A(1)(f) does not include—

(a) the use of any substance as a fuel;

(b) the incineration in a waste incineration plant or waste co-incineration plant of any substance as a waste;

(c) any activity for the treatment of sewage or sewage sludge;

(d) the anaerobic digestion of biodegradable material, whether or not containing or comprising waste.

Commencement

Sch. 1(2)(1)(1a) para. 1(a)-(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 1(a)-(d): England, Wales

Law In Force

2.
In Part A(1)(f), the heat treatment of oil, other than distillation, does not include the heat treatment of waste oil or waste emulsions containing oil in order to recover the oil from aqueous emulsions.

Commencement

Sch. 1(2)(1)(1a) para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 2: England, Wales

Law In Force

3.
In Part A(1), "carbonaceous material" includes such materials as charcoal, coke, peat, rubber and wood, but does not include wood which has not been chemically treated or sewage.

Commencement

Sch. 1(2)(1)(1a) para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 3: England, Wales

Law In Force

4.

In paragraph (1)(d), "anaerobic digestion" means the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable materials which—

(a) is carried on under controlled anaerobic conditions,

(b) produces a methane-rich gas mixture, and

(c) results in stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land.

Commencement

Sch. 1(2)(1)(1a) para. 4(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 4(a)-(c): England, Wales

Part A(2)

Law In Force

(a) Refining gas where this activity does not fall within Part A(1)(a) of this Section.

Commencement

Sch. 1(2)(1)(1a) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 1(a): England, Wales

Part B

Law In Force

(a) Blending odorant for use with natural gas or liquefied petroleum gas.

(b) The storage of petrol in stationary storage tanks at a terminal, or the loading or unloading at a terminal of petrol into or from road tankers, rail tankers or inland waterway vessels.

(c) The unloading of petrol into stationary storage tanks at a service station, if the total quantity of petrol unloaded into such tanks at the service station in any 12-month period is likely to be 500m^3 or more.

(d) Motor vehicle refuelling activities at an existing service station after the prescribed date, if the throughput of petrol at that service station in any 12-month period is or is likely to be in excess of 3,000m^3.
(e) Motor vehicle refuelling activities at a new service station, if the throughput of petrol at that service station in any 12-month period is, or is intended to be in excess of 500m^3.
(f) Motor vehicle refuelling activities at a new service station if the throughput of petrol at that service station in any 12-month period is, or is intended to be in excess of 100m^3 and it is situated under permanent living quarters or working areas.

Commencement

Sch. 1(2)(1)(1a) para. 1(a)-(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 1(a)-(f): England, Wales

Interpretation of Part B

Law In Force

1.
In Part B—
"existing service station" means a service station—
(a) which was put into operation, or
(b) for which planning permission under the Town and Country Planning Act 1990 was granted,
before 1st January 2010;
"inland waterway vessel" means a vessel, other than a sea-going vessel, having a total dead weight of 15 or more tonnes;
"new service station" means—
(a) a service station for which planning permission under the Town and Country Planning Act 1990 was granted on or after 1st January 2010 and—
(i) in relation to paragraph (e) of Part B, it is put into operation on or after 1st January 2010;
(ii) in relation to paragraph (f) of Part B, it is put into operation on or after 1st January 2012;
(b) any existing service station which, on or after 1st January 2012, undergoes a major refurbishment, which has the same meaning as in PVR II;
"petrol" means any petroleum derivative (other than liquefied petroleum gas), with or without additives, having a Reid vapour pressure of 27.6 or more kilopascals, which is intended for use as a fuel for motor vehicles;
"prescribed date" means 31st December 2011 if the throughput is in excess of 3,500m^3 and 31st December 2018 if the throughput is in excess of 3,000m^3;

"service station" means any premises where petrol is dispensed to motor vehicle fuel tanks from stationary storage tanks but does not include any service station exclusively used in association with the construction and delivery of new motor vehicles;
"terminal" means any premises which are used for the storage and loading of petrol into road tankers, rail tankers or inland waterway vessels.

Commencement

Sch. 1(2)(1)(1a) para. 1 definition of "existing service station"- definition of "terminal": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 1 definition of "existing service station"- definition of "terminal": England, Wales

Law In Force

2.
Any other expressions used in Part B which, in relation to paragraphs (b) and (c), are also used in PVR I or, in relation to paragraphs (d) to (f), are also used in PVR II, have the same meaning as in those Directives.

Commencement

Sch. 1(2)(1)(1a) para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(1)(1a) para. 2: England, Wales

CHAPTER 2

SECTION 2.1 Ferrous metals

Interpretation of Section 2.1

Law In Force

1.
In this Section, "ferrous alloy" means an alloy of which iron is the largest constituent, or equal to the largest constituent, by weight, whether or not that alloy also has a non-ferrous metal content greater than any percentage specified in Section 2.2.

Commencement

Sch. 1(2)(2)(2) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2) para. 1: England, Wales

Part A(1)

Law In Force

(a) Roasting or sintering metal ore, including sulphide ore, or any mixture of iron ore with or without other materials.
(b) Producing, melting or refining iron or steel or any ferrous alloy, including continuous casting, except where the only furnaces used are—
(i) electric arc furnaces with a designed holding capacity of less than 7 tonnes, or
(ii) cupola, crucible, reverberatory, rotary, induction, vacuum, electro-slag or resistance furnaces.
(c) Processing ferrous metals and their alloys by using hot-rolling mills with a production capacity of more than 20 tonnes of crude steel per hour.
(d) Loading, unloading or otherwise handling or storing more than 500,000 tonnes in total in any 12-month period of iron ore, except in the course of mining operations, or burnt pyrites.

Commencement

Sch. 1(2)(2)(2) para. 1(a)-(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2) para. 1(a)-(d): England, Wales

Part A(2)

Law In Force

(a) Unless falling within Part A(1)(b) of this Section, producing pig iron or steel, including continuous casting, in a plant with a production capacity of more than 2.5 tonnes per hour.
(b) Operating hammers in a forge, the energy of which is more than 50 kilojoules per hammer, where the calorific power used is more than 20 megawatts.
(c) Applying protective fused metal coatings with an input of more than 2 tonnes of crude steel per hour.
(d) Casting ferrous metal at a foundry with a production capacity of more than 20 tonnes per day.

Commencement

Sch. 1(2)(2)(2) para. 1(a)-(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2) para. 1(a)-(d): England, Wales

Part B

Law In Force

(a) Unless falling within Part A(1)(b) of this Section, producing pig iron or steel, including continuous casting, in a plant with a production capacity of 2.5 or less tonnes per hour.
(b) Unless falling within Part A(2)(a) or (d) of this Section, producing, melting or refining iron or steel or any ferrous alloy (other than producing pig iron or steel, including continuous casting) using—
(i) one or more electric arc furnaces, none of which has a designed holding capacity of 7 or more tonnes, or
(ii) a cupola, crucible, reverberatory, rotary, induction, vacuum, electro-slag or resistance furnace.
(c) Desulphurising iron, steel or any ferrous alloy.
(d) Heating iron, steel or any ferrous alloy (whether in a furnace or other appliance) to remove grease, oil or any other non-metallic contaminant (including such operations as the removal by heat of plastic or rubber covering from scrap cable), unless—
(i) it is carried on in one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a rated thermal input of less than 0.2 megawatts,
(ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant, and
(iii) it is not related to any other activity falling within this Part of this Section.
(e) Unless falling within Part A(1) or Part A(2) of this Section, casting iron, steel or any ferrous alloy from deliveries of 50 or more tonnes of molten metal.

Commencement

Sch. 1(2)(2)(2) para. 1(a)-(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2) para. 1(a)-(e): England, Wales

SECTION 2.2 Non-ferrous metals

Interpretation and application of Section 2.2

Law In Force

1.
Part A(1) and Part B do not apply to hand soldering, flow soldering or wave soldering.

Commencement

Sch. 1(2)(2)(2a) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2a) para. 1: England, Wales

Part A(1)

Law In Force

(a) Unless falling within Part A(2) of this Section, producing non-ferrous metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic activities.
(b) Melting, including making alloys of, non-ferrous metals, including recovered products and the operation of non-ferrous metal foundries where—
(i) the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals, and
(ii) any furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 or more tonnes.
(c) Producing, melting or recovering (whether by chemical means or by electrolysis or by the use of heat) cadmium or mercury or any alloy containing more than 0.05 per cent by weight of either of those metals or both in aggregate.

Commencement

Sch. 1(2)(2)(2a) para. 1(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2a) para. 1(a)-(c): England, Wales

Part A(2)

Law In Force

(a) Melting, including making alloys of, non-ferrous metals, including recovered products and operating of non-ferrous metal foundries where the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals, and—

(i) no furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 or more tonnes, or

(ii) the plant uses a vacuum furnace of any design holding capacity.

Commencement

Sch. 1(2)(2)(2a) para. 1(a)-(a)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2a) para. 1(a)-(a)(ii): England, Wales

Part B

Law In Force

(a) Melting, including making alloys of, non-ferrous metals (other than tin or any alloy which in molten form contains 50 per cent or more by weight of tin), including recovered products (such as refining or foundry casting) in plant with a melting capacity of 4 tonnes or less per day for lead or cadmium or 20 tonnes or less per day for all other metals.

(b) Heating in a furnace or any other appliance any non-ferrous metal or non-ferrous metal alloy for the purpose of removing grease, oil or any other non-metallic contaminant, including such operations as the removal by heat of plastic or rubber covering from scrap cable, if not related to another activity described in this Part of this Section, unless—

(i) it involves the use of one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a net rated thermal input of less than 0.2 megawatts, and

(ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant.

(c) Melting zinc or a zinc alloy in conjunction with a galvanising activity at a rate of 20 or less tonnes per day.

(d) Melting zinc, aluminium or magnesium or an alloy of one or more of these metals in conjunction with a die-casting activity at a rate of 20 or less tonnes per day.

(e) Unless falling within Part A(1) or Part A(2) of this Section, the separation of copper, aluminium, magnesium or zinc from mixed scrap by differential melting.

Commencement

Sch. 1(2)(2)(2a) para. 1(a)-(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2a) para. 1(a)-(e): England, Wales

Interpretation and application of Part B

Law In Force

1.
When determining the extent of an installation carrying on an activity within Part B(e), any location where the associated storage or handling of scrap which is to be heated as part of that activity is carried on, other than a location where scrap is loaded into a furnace, is to be ignored.

Commencement

Sch. 1(2)(2)(2a) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2a) para. 1: England, Wales

Law In Force

2.
In Part B, "non-ferrous metal alloy" means an alloy which is not a ferrous alloy, as defined in Section 2.1.

Commencement

Sch. 1(2)(2)(2a) para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2a) para. 2: England, Wales

SECTION 2.3 Surface treating metals and plastic materials

Part A(1)

Law In Force

(a) Unless falling within Part A(2) of this Section, surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than $30m^3$.

Commencement

Sch. 1(2)(2)(2b) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2b) para. 1(a): England, Wales

Part A(2)

Law In Force

(a) Surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than $30m^3$ and where the activity is carried on at the same installation as one or more activities falling within—

(i) Part A(2) or Part B of Section 2.1,

(ii) Part A(2) or Part B of Section 2.2, or

(iii) Part A(2) or Part B of Section 6.4.

Commencement

Sch. 1(2)(2)(2b) para. 1(a)-(a)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2b) para. 1(a)-(a)(iii): England, Wales

Part B

Law In Force

(a) Any process for the surface treatment of metal which is likely to result in the release into air of any acid-forming oxide of nitrogen and which does not fall within Part A(1) or Part A(2) of this Section.

Commencement

Sch. 1(2)(2)(2b) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(2)(2b) para. 1(a): England, Wales

CHAPTER 3

SECTION 3.1 Production of cement and lime

Part A(1)

Law In Force

(a) Producing cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other kilns with a production capacity exceeding 50 tonnes per day.
(b) Producing lime or magnesium oxide in kilns with a production capacity of more than 50 tonnes per day.

Commencement

Sch. 1(2)(3)(3) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3) para. 1(a)-(b): England, Wales

Part A(2)

Law In Force

(a) Grinding cement clinker.

Commencement

Sch. 1(2)(3)(3) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3) para. 1(a): England, Wales

Part B

Law In Force

(a) Storing, loading or unloading cement or cement clinker in bulk prior to further transportation in bulk.
(b) Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready-mixed concrete and the manufacture of concrete blocks and other cement products.

(c) Slaking lime for the purpose of making calcium hydroxide or calcium magnesium hydroxide.
(d) Producing lime or magnesium oxide where the activity does not involve the heating of more than 50 tonnes per day of calcium carbonate or calcium magnesium carbonate or both in aggregate.

Commencement

Sch. 1(2)(3)(3) para. 1(a)-(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3) para. 1(a)-(d): England, Wales

SECTION 3.2 Activities involving asbestos

Interpretation of Section 3.2

Law In Force

1.
In this Section "asbestos" means any of the following fibrous silicates: actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.

Commencement

Sch. 1(2)(3)(3a) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3a) para. 1: England, Wales

Part A(1)

Law In Force

(a) Producing asbestos or manufacturing products based on or containing asbestos.
(b) Stripping asbestos from railway vehicles except—
(i) in the course of the repair or maintenance of the vehicle,
(ii) in the course of recovery operations following an accident, or
(iii) where the asbestos is permanently bonded in cement or in any other material (including plastic, rubber or resin).

Commencement

Sch. 1(2)(3)(3a) para. 1(a)-(b)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3a) para. 1(a)-(b)(iii): England, Wales

Part B

Law In Force

(a) Unless related to an activity falling within Part A(1) of this Section, the industrial finishing of—

(i) asbestos cement,
(ii) asbestos cement products,
(iii) asbestos fillers,
(iv) asbestos filters,
(v) asbestos floor coverings,
(vi) asbestos friction products,
(vii) asbestos insulating board,
(viii) asbestos jointing, packaging or reinforcement material,
(ix) asbestos packing,
(x) asbestos paper or card, or
(xi) asbestos textiles.

Commencement

Sch. 1(2)(3)(3a) para. 1(a)-(a)(xi): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3a) para. 1(a)-(a)(xi): England, Wales

SECTION 3.3 Manufacturing glass and glass fibre

Part A(1)

Law In Force

(a) Manufacturing glass fibre in plant with a melting capacity exceeding 20 tonnes per day.

Commencement

Sch. 1(2)(3)(3b) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3b) para. 1(a): England, Wales

Part A(2)

Law In Force

(a) Manufacturing glass, unless falling within Part A(1) of this Section, where the melting capacity of the plant is more than 20 tonnes per day.

Commencement

Sch. 1(2)(3)(3b) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3b) para. 1(a): England, Wales

Part B

Law In Force

Unless falling within Part A(1) or Part A(2) of this Section—

(a) Manufacturing glass at any location with the capacity to make 5,000 or more tonnes of glass in any 12-month period, and any activity involving the use of glass which is carried on at any such location in conjunction with its manufacture.

(b) Manufacturing glass where the use of lead or any lead compound is involved.

(c) Manufacturing any glass product where lead or any lead compound has been used in the manufacture of the glass except—

(i) making products from lead glass blanks, or

(ii) melting, or mixing with another substance, glass manufactured elsewhere to produce articles such as ornaments or road paint.

(d) Polishing or etching glass or glass products in the course of any manufacturing activity if—

(i) hydrofluoric acid is used, or

(ii) hydrogen fluoride may be released into the air.

(e) Manufacturing glass frit or enamel frit and its use in any activity where that activity is related to its manufacture.

Commencement

Sch. 1(2)(3)(3b) para. 1(a)-(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3b) para. 1(a)-(e): England, Wales

SECTION 3.4 Production of other mineral fibres

Part A(1)

Law In Force

(a) Melting mineral substances including the production of mineral fibres in plants with a melting capacity exceeding 20 tonnes per day.

Commencement

Sch. 1(2)(3)(3c) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3c) para. 1(a): England, Wales

SECTION 3.5 Other mineral activities

Part A(2)

Law In Force

(a) Manufacturing cellulose fibre reinforced calcium silicate board using unbleached pulp.

Commencement

Sch. 1(2)(3)(3d) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3d) para. 1(a): England, Wales

Part B

Law In Force

(a) Unless falling within Part A(1) or Part A(2) of any Section, the crushing, grinding or other size reduction, other than the cutting of stone, or the grading, screening or heating of any designated mineral or mineral product except where the operation of the activity is unlikely to result in the release into the air of particulate matter.

(b) Any of the following activities unless carried on at an exempt location—

(i) crushing, grinding or otherwise breaking up coal, coke or any other coal product;

(ii) screening, grading or mixing coal, coke or any other coal product;

(iii) loading or unloading petroleum coke, coal, coke or any other coal product except unloading on retail sale.

(c) The crushing, grinding or other size reduction, with machinery designed for that purpose, of bricks, tiles or concrete.

(d) Screening the product of any activity described in paragraph (c).

(e) Coating road stone with tar or bitumen.

(f) Loading, unloading or storing pulverised fuel ash in bulk prior to further transportation in bulk.

(g) The fusion of calcined bauxite for the production of artificial corundum.

Commencement

Sch. 1(2)(3)(3d) para. 1(a)-(g): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3d) para. 1(a)-(g): England, Wales

Interpretation and application of Part B

Law In Force

1.

In Part B—

"coal" includes lignite;

"designated mineral or mineral product" means—

(a) clay, sand or any other naturally occurring mineral other than coal;

(b) metallurgical slag;

(c) boiler or furnace ash produced from the burning of coal, coke or any other coal product;

(d) gypsum which is a by-product of any activity;

"exempt location" means—

(a) any premises used for the sale of petroleum coke, coal, coke or any coal product where the throughput of such substances at those premises in any 12-month period is in aggregate likely to be less than 10,000 tonnes, or

(b) any premises to which petroleum coke, coal, coke or any coal product is supplied only for use there;

"retail sale" means sale to the final customer.

Commencement

Sch. 1(2)(3)(3d) para. 1 definition of "coal"- definition of "retail sale": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3d) para. 1 definition of "coal"- definition of "retail sale": England, Wales

Law In Force

2.
Part B does not apply to any activity carried on underground.

Commencement

Sch. 1(2)(3)(3d) para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3d) para. 2: England, Wales

SECTION 3.6 Ceramic production

Part A(1)

Law In Force

(a) Manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—

(i) the kiln production capacity is more than 75 tonnes per day, or

(ii) the kiln capacity is more than $4m^3$ and the setting density is more than $300kg/m^3$,

and a reducing atmosphere is used other than for the purposes of colouration.

Commencement

Sch. 1(2)(3)(3e) para. 1(a)-(a)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3e) para. 1(a)-(a)(ii): England, Wales

Part A(2)

Law In Force

(a) Unless falling within Part A(1) of this Section, manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—

(i) the kiln production capacity is more than 75 tonnes per day, or

(ii) the kiln capacity is more than $4m^3$ and the setting density is more than $300kg/m^3$.

Commencement

Sch. 1(2)(3)(3e) para. 1(a)-(a)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3e) para. 1(a)-(a)(ii): England, Wales

Part B

Law In Force

(a) Unless falling within Part A(1) or A(2) of this Section, firing heavy clay goods or refractory materials (other than heavy clay goods) in a kiln.

(b) Vapour glazing earthenware or clay with salts.

Commencement

Sch. 1(2)(3)(3e) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3e) para. 1(a)-(b): England, Wales

Interpretation of Part B

Law In Force

1.

In Part B—

"clay" includes a blend of clay with ash, sand or other materials;

"refractory material" means material (such as fireclay, silica, magnesite, chrome-magnesite, sillimanite, sintered alumina, beryllia and boron nitride) which is able to withstand high temperatures and to function as a furnace lining or in other similar high temperature applications.

Commencement

Sch. 1(2)(3)(3e) para. 1 definition of "clay"- definition of "refractory material": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(3)(3e) para. 1 definition of "clay"- definition of "refractory material": England, Wales

CHAPTER 4

The chemical industry

Law In Force

1. Interpretation of Chapter 4

In Part A(1) of the Sections of this Chapter, "producing" means the production on an industrial scale by chemical or biological processing of substances or groups of substances listed in the relevant Sections.

Commencement

Sch. 1(2)(4) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4) para. 1: England, Wales

SECTION 4.1 Organic chemicals

Interpretation of Section 4.1

Law In Force

1.

In this Section, "pre-formulated resin or pre-formulated gel coat" means any resin or gel coat which has been formulated before being introduced into polymerisation or co-polymerisation activity, whether or not the resin or gel coat contains a colour pigment, activator or catalyst.

Commencement

Sch. 1(2)(4)(4) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4) para. 1: England, Wales

Part A(1)

Law In Force

(a) Producing organic chemicals such as—

(i) hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);
(ii) organic compounds containing oxygen (for example alcohols, aldehydes, ketones, carboxylic acids, esters, ethers, peroxides, phenols, epoxy resins);
(iii) organic compounds containing sulphur (for example sulphides, mercaptans, sulphonic acids, sulphonates, sulphates and sulphones and sulphur heterocyclics);
(iv) organic compounds containing nitrogen (for example amines, amides, nitrous-, nitro- or azo-compounds, nitrates, nitriles, nitrogen heterocyclics, cyanates, isocyanates, di-isocyanates and di-isocyanate prepolymers);
(v) organic compounds containing phosphorus (for example substituted phosphines and phosphate esters);
(vi) organic compounds containing halogens (for example halocarbons, halogenated aromatic compounds and acid halides);
(vii) organometallic compounds (for example lead alkyls, Grignard reagents and lithium alkyls);
(viii) plastic materials (for example polymers, synthetic fibres and cellulose-based fibres);
(ix) synthetic rubbers;
(x) dyes and pigments;
(xi) surface-active agents.

Commencement

Sch. 1(2)(4)(4) para. 1(a)-(a)(xi): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4) para. 1(a)-(a)(xi): England, Wales

Part B

Law In Force

(a) Unless falling within Part A(1) of this Section, any activity where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12-month period of 5 or more tonnes of any di-isocyanate or of any partly polymerised di-isocyanate or, in aggregate, of both.
(b) The flame bonding or cutting with heated wires of polyurethane foams or polyurethane elastomers.
(c) Any activity for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon, where the activity is likely to involve, in any 12-month period, the polymerisation or co-polymerisation of 100 or more tonnes of unsaturated hydrocarbon.
(d) Unless falling within Part A(1) of this Section, any activity involving the use of toluene di-isocyanate or partly polymerised di-isocyanate if—
(i) less than 5 tonnes of toluene di-isocyanate monomer is likely to be used in any 12-month period, and
(ii) the activity may result in a release into the air which contains toluene di-isocyanate.

Commencement

Sch. 1(2)(4)(4) para. 1(a)-(d)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4) para. 1(a)-(d)(ii): England, Wales

SECTION 4.2 Inorganic chemicals

Part A(1)

Law In Force

(a) Producing inorganic chemicals such as—
(i) gases (for example ammonia, hydrogen chloride, hydrogen fluoride, hydrogen cyanide, hydrogen sulphide, oxides of carbon, sulphur compounds, oxides of nitrogen, hydrogen, oxides of sulphur, phosgene);
(ii) acids (for example chromic acid, hydrofluoric acid, hydrochloric acid, hydrobromic acid, hydroiodic acid, phosphoric acid, nitric acid, sulphuric acid, oleum and chlorosulphonic acid);
(iii) bases (for example ammonium hydroxide, potassium hydroxide, sodium hydroxide);
(iv) salts (for example ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate, cupric acetate, ammonium phosphomolybdate);
(v) non-metals, metal oxides, metal carbonyls or other inorganic compounds (for example calcium carbide, silicon, silicon carbide, titanium dioxide);

(vi) halogens or interhalogen compounds comprising two or more of halogens, or any compound comprising one or more of those halogens and oxygen.

(b) Unless falling within any other Section, any manufacturing activity which is likely to result in the release into the air of any hydrogen halide (other than the manufacture of glass or the coating, plating or surface treatment of metal) or which is likely to result in the release into the air or water of any halogen or any of the compounds mentioned in paragraph (a)(vi) (other than the treatment of water).

(c) Unless falling within any other Section, any manufacturing activity (other than the application of a glaze or vitreous enamel) involving the use of, or the use or recovery of, any compound of any of the following elements—

(i) antimony,
(ii) arsenic,
(iii) beryllium,
(iv) gallium,
(v) indium,
(vi) lead,
(vii) palladium,
(viii) platinum,
(ix) selenium,
(x) tellurium,
(xi) thallium,

where the activity may result in the release into the air of any of those elements or compounds or the release into water of any substance listed in paragraph 7(1) of Part 1 of this Schedule.

(d) Recovering any compound of cadmium or mercury.

(e) Unless falling within any other Section, any manufacturing activity involving the use of mercury or cadmium or any compound of either element or which may result in the release into the air of either of those elements or their compounds.

(f) Unless falling within any other Section, any activity (other than the combustion or incineration of carbonaceous material as defined in the Interpretation of Part A(1) of Section 1.2) which is likely to result in the release into the air of any acid-forming oxide of nitrogen.

Commencement

Sch. 1(2)(4)(4a) para. 1(a)-(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4a) para. 1(a)-(f): England, Wales

SECTION 4.3 Chemical fertiliser production

Part A(1)

Law In Force

(a) Producing (including any blending which is related to their production) phosphorus-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers).

Commencement

Sch. 1(2)(4)(4b) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4b) para. 1(a): England, Wales

SECTION 4.4 Plant health products and biocides

Part A(1)

Law In Force

(a) Producing plant health products or biocides.

Commencement

Sch. 1(2)(4)(4c) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4c) para. 1(a): England, Wales

SECTION 4.5 Pharmaceutical production

Part A(1)

Law In Force

(a) Producing pharmaceutical products.

Commencement

Sch. 1(2)(4)(4d) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4d) para. 1(a): England, Wales

SECTION 4.6 Explosives production

Part A(1)

Law In Force

(a) Producing explosives.

Commencement

Sch. 1(2)(4)(4e) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4e) para. 1(a): England, Wales

SECTION 4.7 Manufacturing activities involving carbon disulphide or ammonia

Part A(1)

Law In Force

(a) Any activity for the manufacture of a chemical which may result in the release of ammonia into the air, other than an activity in which ammonia is only used as a refrigerant.

Commencement

Sch. 1(2)(4)(4f) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4f) para. 1(a): England, Wales

SECTION 4.8 The storage of chemicals in bulk

Part B

Law In Force

(a) The storage in tanks, other than in tanks for the time being forming part of a powered vehicle, of any of the substances listed below, except where the total storage capacity of the tanks installed at the location in question in which the relevant substance may be stored is less than the figure specified below in relation to that substance—

(i) one or more acrylates, 20 tonnes (in aggregate);
(ii) acrylonitrile, 20 tonnes;
(iii) anhydrous ammonia, 100 tonnes;
(iv) anhydrous hydrogen fluoride, 1 tonne;
(v) toluene di-isocyanate, 20 tonnes;
(vi) vinyl chloride monomer, 20 tonnes;
(vii) ethylene, 8,000 tonnes.

Commencement

Sch. 1(2)(4)(4g) para. 1(a)-(a)(vii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(4)(4g) para. 1(a)-(a)(vii): England, Wales

CHAPTER 5

SECTION 5.1 Incineration and co-incineration of waste

Part A(1)

Law In Force

(a) The incineration of hazardous waste in a waste incineration plant or waste co-incineration plant with a capacity exceeding 10 tonnes per day.
(b) The incineration of non-hazardous waste in a waste incineration plant or waste co-incineration plant with a capacity exceeding 3 tonnes per hour.
(c) The incineration, other than incidentally in the course of burning landfill gas or solid or liquid waste, of any gaseous compound containing halogens.

Commencement

Sch. 1(2)(5)(5) para. 1(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5) para. 1(a)-(c): England, Wales

Part B

Law In Force

(a) The incineration in a small waste incineration plant with an aggregate capacity of 50kg or more per hour of the following waste—

(i) vegetable waste from agriculture or forestry;

(ii) vegetable waste from the food processing industry, if the heat generated is recovered;

(iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;

(iv) cork waste;

(v) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coatings;

(vi) animal carcasses.

(b) The cremation of human remains.

Commencement

Sch. 1(2)(5)(5) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5) para. 1(a)-(b): England, Wales

Application of Part B

Law In Force

1.

When determining the extent of an installation carrying on an activity within Part B, any location of the following description is to be ignored: any location where the associated storage or handling of wastes and residues which are to be incinerated as part of that activity is carried on, other than a location where the associated storage or handling of animal remains intended for burning in an incinerator used wholly or mainly for the incineration of such remains or residues from the burning of such remains in such an incinerator is carried on.

Commencement

Sch. 1(2)(5)(5) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5) para. 1: England, Wales

SECTION 5.2 Disposal of waste by landfill

Part A(1)

Law In Force

(a) The disposal of waste in a landfill—

(i) receiving more than 10 tonnes of waste in any day, or

(ii) with a total capacity of more than 25,000 tonnes,

but excluding disposals in a landfill taking only inert waste.

Commencement

Sch. 1(2)(5)(5a) para. 1(a)-(a)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5a) para. 1(a)-(a)(ii): England, Wales

SECTION 5.3 Disposal or recovery of hazardous waste

Part A(1)

Law In Force

(a) Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving one or more of the following activities—

(i) biological treatment;

(ii) physico-chemical treatment;

(iii) blending or mixing prior to submission to any of the other activities listed in this Section or in Section 5.1;

(iv) repackaging prior to submission to any of the other activities listed in this Section or in Section 5.1;

(v) solvent reclamation or regeneration;

(vi) recycling or reclamation of inorganic materials other than metals or metal compounds;

(vii) regeneration of acids or bases;

(viii) recovery of components used for pollution abatement;

(ix) recovery of components from catalysts;

(x) oil re-refining or other re-uses of oil;

(xi) surface impoundment.

Commencement

Sch. 1(2)(5)(5b) para. 1(a)-(a)(xi): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5b) para. 1(a)-(a)(xi): England, Wales

SECTION 5.4 Disposal, recovery or a mix of disposal and recovery of non-hazardous waste

Part A(1)

Law In Force

(a) Disposal of non-hazardous waste with a capacity exceeding 50 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving one or more of the following activities, and excluding activities covered by [the Urban Waste Water Treatment (England and Wales) Regulations 1994[2]] [1] —

(i) biological treatment;

(ii) physico-chemical treatment;

(iii) pre-treatment waste for incineration or co-incineration;

(iv) treatment of slags and ashes;

(v) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

(b) Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving one or more of the following activities, and excluding activities covered by [the Urban Waste Water Treatment (England and Wales) Regulations 1994] [3] —

(i) biological treatment;

(ii) pre-treatment of waste for incineration or co-incineration;

(iii) treatment of slags and ashes;

(iv) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

Notes

1 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(7)(a)(i)(aa) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 S.I. 1994/2841, amended by S.I. 2003/1788, 2005/2035, 2010/675, 2011/556, 2013/755 (W 90) and 2016/1154.

3 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(7)(a)(i)(bb) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 1(2)(5)(5c) para. 1(a)-(b)(iv): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5c) para. 1(a)-(b)(iv): England, Wales

Interpretation of Part A(1)

Law In Force

1.
In Part A(1), "anaerobic digestion" has the same meaning as in the Industrial Emissions Directive.

Commencement

Sch. 1(2)(5)(5c) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5c) para. 1: England, Wales

SECTION 5.5 The production of fuel from waste

Part A(1)

Law In Force

(a) Making solid fuel (other than charcoal) from waste by any process involving the use of heat.

Commencement

Sch. 1(2)(5)(5d) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5d) para. 1(a): England, Wales

SECTION 5.6 Temporary or underground storage of hazardous waste

Part A(1)

Law In Force

(a) Temporary storage of hazardous waste with a total capacity exceeding 50 tonnes pending any of the activities listed in Sections 5.1, 5.2, 5.3 and paragraph (b) of this Section, except—
  (i) temporary storage, pending collection, on the site where the waste is generated, or
  (ii) activities falling within Section 5.2.
(b) Underground storage of hazardous waste with a total capacity exceeding 50 tonnes.

Commencement

Sch. 1(2)(5)(5e) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5e) para. 1(a)-(b): England, Wales

SECTION 5.7 Treatment of waste water

Part A(1)

Law In Force

(a) Independently operated treatment of waste water not covered by **[** the Urban Waste Water Treatment (England and Wales) Regulations 1994 **]** [1] and discharged by an installation carrying out any other Part A(1) or A(2) activity.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(7)(a)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 1(2)(5)(5f) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(5)(5f) para. 1(a): England, Wales

CHAPTER 6

SECTION 6.1 Paper, pulp and board manufacturing activities

Part A(1)

Law In Force

(a) Producing, in industrial plant, pulp from timber or other fibrous materials.
(b) Producing, in industrial plant, paper and board where the plant has a production capacity of more than 20 tonnes per day.

Commencement

Sch. 1(2)(6)(6) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6) para. 1(a)-(b): England, Wales

Part A(2)

Law In Force

(a) Producing, in an industrial plant, one or more of the following wood-based panels with a production capacity exceeding 600m^3 per day: oriented strand board, particleboard or fibreboard.

Commencement

Sch. 1(2)(6)(6) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6) para. 1(a): England, Wales

SECTION 6.2 Carbon activities

Part A(1)

Law In Force

(a) Producing carbon or hard-burnt coal or electro-graphite by means of incineration or graphitisation.

Commencement

Sch. 1(2)(6)(6a) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6a) para. 1(a): England, Wales

SECTION 6.3 Tar and bitumen activities

Part A(1)

Law In Force

(a) The following activities—

(i) distilling tar or bitumen in connection with any process of manufacture, or

(ii) heating tar for the manufacture of electrodes or carbon-based refractory materials,

where the activity is likely to involve the use in any 12-month period of 5 or more tonnes of tar or of bitumen or both in aggregate.

Commencement

Sch. 1(2)(6)(6b) para. 1(a)-(a)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6b) para. 1(a)-(a)(ii): England, Wales

Part B

Law In Force

(a) Any activity not falling within Part A(1) of this Section or of Section 6.2 involving—

(i) heating, but not distilling, tar or bitumen in connection with any manufacturing activity, or

(ii) oxidising bitumen by blowing air through it, at plant where no other activities described in any Section in this Schedule are carried on,

where the carrying on of the activity is likely to involve the use in any 12-month period of 5 or more tonnes of tar or bitumen or both in aggregate.

Commencement

Sch. 1(2)(6)(6b) para. 1(a)-(a)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6b) para. 1(a)-(a)(ii): England, Wales

Interpretation of Part B

Law In Force

1.

In Part B, "tar" and "bitumen" include pitch.

Commencement

Sch. 1(2)(6)(6b) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6b) para. 1: England, Wales

SECTION 6.4 Coating activities, printing and textile treatments

Part A(1)

Law In Force

(a) Pre-treating (by operations such as washing, bleaching or mercerization) or dyeing fibres or textiles in plant with a treatment capacity of more than 10 tonnes per day.

Commencement

Sch. 1(2)(6)(6c) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6c) para. 1(a): England, Wales

Part A(2)

Law In Force

(a) Unless falling within Part A(1) of this Section, surface treating substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, in plant with a consumption capacity of more than 150kg or more per hour than 200 tonnes per year.

Commencement

Sch. 1(2)(6)(6c) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6c) para. 1(a): England, Wales

Part B

Law In Force

(a) Unless falling within Part A(1) or Part A(2) of this Section or Part A(2)(c) of Section 2.1, any process (other than for the re-painting or re-spraying of, or of parts of, aircraft or road or railway vehicles) for applying to a substrate, or drying or curing after such application, printing ink or paint or any other coating material as, or in the course of, a manufacturing activity, where the process may result in the release into the air of particulate matter or of any volatile organic compound and is likely to involve the use in any 12-month period of—

(i) 20 or more tonnes of printing ink, paint or other coating material which is applied in solid form,

(ii) 20 or more tonnes of any metal coating which is sprayed on in molten form,

(iii) 25 or more tonnes of organic solvents in respect of any cold set web offset printing activity or any sheet fed offset litho printing activity, or

(iv) 5 or more tonnes of organic solvents in respect of any activity not mentioned in sub-paragraph (iii).

(b) Unless falling within Part A(2) of this Section, re-painting or re-spraying road vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use of 1 or more tonnes of organic solvents in any 12-month period.

(c) Re-painting or re-spraying aircraft or railway vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use in any 12-month period of—

(i) 20 or more tonnes of any paint or other coating material which is applied in solid form,

(ii) 20 or more tonnes of any metal coatings which are sprayed on in molten form, or

(iii) 5 or more tonnes of organic solvents.

Commencement

Sch. 1(2)(6)(6c) para. 1(a)-(c)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6c) para. 1(a)-(c)(iii): England, Wales

Interpretation and application of Part B

Law In Force

1.

In Part B—

"aircraft" includes gliders and missiles;

"coating material" means paint, printing ink, varnish, lacquer, dye, any metal oxide coating, any adhesive coating, any elastomer coating, any metal or plastic coating and any other coating material.

Commencement

Sch. 1(2)(6)(6c) para. 1 definition of "aircraft"- definition of "coating material": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6c) para. 1 definition of "aircraft"- definition of "coating material": England, Wales

Law In Force

2.

The amount of organic solvents used in an activity must be calculated as—

(a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents used for cleaning or other purposes, less

(b) any organic solvents that are removed from the process for re-use or for recovery for re-use.

Commencement

Sch. 1(2)(6)(6c) para. 2(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6c) para. 2(a)-(b): England, Wales

Law In Force

3.

When determining the extent of an installation carrying on an activity within Part B, any location where the associated cleaning of used storage drums prior to painting or their incidental handling in connection with such cleaning is carried on is to be ignored, unless that location forms part of a regulated facility at which a solvent emission activity is carried out.

Commencement

Sch. 1(2)(6)(6c) para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6c) para. 3: England, Wales

SECTION 6.5 The manufacture of dyestuffs, printing ink and coating materials

Part B

Law In Force

(a) Unless falling within Part A(1) or Part A(2) of any other Section—

(i) manufacturing or formulating printing ink or any other coating material containing, or involving the use of, an organic solvent, where the carrying on of the activity is likely to involve the use of 100 or more tonnes of organic solvents in any 12-month period;

(ii) manufacturing any powder for use as a coating where the process uses lead chromate or triglycidyl isocyanurate and material where there is the capacity to produce 200 or more tonnes of such powder in any 12-month period.

Commencement

Sch. 1(2)(6)(6d) para. 1(a)-(a)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6d) para. 1(a)-(a)(ii): England, Wales

Interpretation of Part B

Law In Force

1.

In Part B, "coating material" has the same meaning as in Section 6.4.

Commencement

Sch. 1(2)(6)(6d) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6d) para. 1: England, Wales

Law In Force

2.

The amount of organic solvents used in an activity must be calculated as—

(a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents for cleaning or other purposes, less

(b) any organic solvents, not contained in coating materials, that are removed from the process for re-use or for recovery for re-use.

Commencement

Sch. 1(2)(6)(6d) para. 2(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6d) para. 2(a)-(b): England, Wales

SECTION 6.6 Timber activities

Part A(2)

Law In Force

(a) Preservation of wood and wood products with chemicals with a production capacity exceeding 75m^3 per day other than exclusively treating against sapstain.

Commencement

Sch. 1(2)(6)(6e) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6e) para. 1(a): England, Wales

Part B

Law In Force

(a) Unless falling within Part A(2) of Section 6.1, manufacturing products wholly or mainly of wood at any works if the activity involves a relevant activity and the throughput of the works in any 12-month period is likely to be more than—

(i) 10,000 cubic metres in the case of works at which wood is only sawed, or wood is sawed and subjected to excluded activities, or

(ii) 1,000 cubic metres in any other case.

Commencement

Sch. 1(2)(6)(6e) para. 1(a)-(a)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6e) para. 1(a)-(a)(ii): England, Wales

Interpretation of Part B

Law In Force

1.

In Part B and in this paragraph—

"excluded activity" means any relevant activity (other than sawing) which, ignoring any sawing carried on at the works, would be unlikely to result in the release into the air of any substance in paragraph 6(3) of Part 1 of this Schedule in a quantity capable of causing significant harm;

"relevant activity" means the sawing, drilling, sanding, shaping, turning, planing, curing or chemical treatment of wood;

"throughput" means the amount of wood which is subjected to a relevant activity, but where wood is subject to two or more relevant activities at the same works, the second and any subsequent activity is to be ignored;

"wood" includes any product consisting wholly or mainly of wood;

"works" includes a sawmill or any other premises where relevant activities are carried on.

Commencement

Sch. 1(2)(6)(6e) para. 1 definition of "excluded activity"- definition of "works": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6e) para. 1 definition of "excluded activity"- definition of "works": England, Wales

SECTION 6.7 Activities involving rubber

Part A(2)

Law In Force

(a) Manufacturing new tyres (but not remoulds or retreads) if this involves the use in any 12-month period of 50,000 or more tonnes of one or more of the following—

(i) natural rubber;

(ii) synthetic organic elastomers;

(iii) other substances mixed with them.

Commencement

Sch. 1(2)(6)(6f) para. 1(a)-(a)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6f) para. 1(a)-(a)(iii): England, Wales

Part B

Law In Force

(a) Unless falling within Part A(1) or Part A(2) of any Section, the mixing, milling or blending of—

(i) natural rubber, or

(ii) synthetic organic elastomers,

if carbon black is used.

(b) Any activity which converts the product of an activity falling within paragraph (a) into a finished product if related to an activity falling within that paragraph.

Commencement

Sch. 1(2)(6)(6f) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6f) para. 1(a)-(b): England, Wales

SECTION 6.8 The treatment of animal and vegetable matter and food industries

Interpretation of Section 6.8

Law In Force

1.

(1) In this Section—

"animal" includes a bird or a fish;

"controlled waters" has the meaning given in section 104 of the 1991 Act;

"excluded activity" means—

(a) any activity carried on on a farm or agricultural holding other than—

(i) the manufacture of goods for sale;

(ii) the production of compost for growing mushrooms;

(b) the manufacture or preparation of food or drink for human consumption but excluding—

(i) the extraction, distillation or purification of animal or vegetable oil or fat otherwise than as an activity incidental to the cooking of food for human consumption;

(ii) any activity involving the use of green offal or the boiling of blood except the cooking of food (other than tripe) for human consumption;

(iii) the cooking of tripe for human consumption elsewhere than on premises on which it is to be consumed;

(c) the fleshing, cleaning and drying of pelts of fur-bearing mammals;

(d) any activity carried on in connection with the operation of a collection centre for animal by-products;

(e) any activity for the manufacture of soap not falling within Part A(1) of Section 4.1;

(f) the storage of vegetable matter not falling within any other Section;

(g) the manufacture of starch;

(h) the salting of hides or skins, unless related to any other activity listed in this Schedule;

(i) any activity for composting animal or vegetable matter or a combination of both, except where that activity is carried on for the purposes of cultivating mushrooms;

(j) any activity for cleaning, and any related activity for drying or dressing, seeds, bulbs, corms or tubers (and "related activity" means an activity being carried on by the same person at the same site);

(k) the drying of grain or pulses;

(l) any activity for the production of cotton yarn from raw cotton or for the conversion of cotton yarn into cloth;

(m) the drying of green crops;

"food" includes—

(a) drink,

(b) articles and substances of no nutritional value which are used for human consumption, and

(c) articles and substances used as ingredients in the preparation of food.

(2) In sub-paragraph (1)—

"green crops" means alfalfa (Lucerne), clover, grass, perennial ryegrass, tall fescue and other similar crops;

"green offal" means the stomach and intestines of any animal, other than poultry or fish, and their contents.

Commencement

Sch. 1(2)(6)(6g) para. 1(1)-(2) definition of "green offal": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6g) para. 1(1)-(2) definition of "green offal": England, Wales

Part A(1)

Law In Force

(a) Tanning hides and skins at a plant with a treatment capacity of more than 12 tonnes of finished products per day.

(b) Slaughtering animals at a plant with a carcass production capacity of more than 50 tonnes per day.

(c) Disposing of or recycling animal carcasses or animal waste, other than by rendering in a small waste incineration plant, at a plant with a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or both in aggregate.

(d) Treatment and processing, other than exclusively packaging, of the following raw materials, whether previously processed or unprocessed, intended for the production of food or feed (where the weight of the finished product excludes packaging)—

(i) only animal raw materials (other than milk only) with a finished product production capacity greater than 75 tonnes per day;

(ii) only vegetable raw materials with a finished product production capacity greater than 300 tonnes per day or 600 tonnes per day where the installation operates for a period of no more than 90 consecutive days in any year;

(iii) animal and vegetable raw materials (other than milk only), both in combined and separate products, with a finished product production capacity in tonnes per day greater than—

(aa) 75 if A is equal to 10 or more, or

(bb) 300-(22.5 x A) in any other case,

where 'A' is the portion of animal material in percent of weight of the finished product production capacity.

(e) Treating and processing milk, the quantity of milk received being more than 200 tonnes per day (average value on an annual basis).

Commencement

Sch. 1(2)(6)(6g) para. 1(a)-(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6g) para. 1(a)-(e): England, Wales

Part A(2)

Law In Force

(a) Disposing of or recycling animal carcasses or animal waste by rendering at plant or in a small waste incineration plant, where the plant or small waste incineration plant has a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or both in aggregate.

Commencement

Sch. 1(2)(6)(6g) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6g) para. 1(a): England, Wales

Part B

Law In Force

(a) Processing, storing or drying by the application of heat the whole or part of any dead animal or any vegetable matter (other than the treatment of effluent so as to permit its discharge into controlled waters or into a sewer unless the treatment involves the drying of any material with a view to its use as animal feedstuff) if the processing, storing or drying—

(i) does not fall within another Section, or Part A(1) or Part A(2) of this Section,

(ii) is not an excluded activity, and

(iii) may result in the release into the air of—

(aa) any substance listed in in paragraph 6(3) of Part 1 of this Schedule, or

(bb) any offensive smell noticeable outside the premises on which the activity is carried on.

(b) Breeding maggots in any case where 5kg or more of animal matter, vegetable matter or both in aggregate, are introduced into the process in any week.

Commencement

Sch. 1(2)(6)(6g) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6g) para. 1(a)-(b): England, Wales

SECTION 6.9 Intensive farming

Part A(1)

Law In Force

(a) Rearing poultry or pigs intensively in an installation with more than—

(i) 40,000 places for poultry,

(ii) 2,000 places for production pigs (over 30kg), or

(iii) 750 places for sows.

Commencement

Sch. 1(2)(6)(6h) para. 1(a)-(a)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6h) para. 1(a)-(a)(iii): England, Wales

SECTION 6.10 Carbon capture and storage

Part A(1)

Law In Force

(a) Capture of carbon dioxide streams from an installation for the purposes of geological storage pursuant to **[** Chapter 3 of Part 1 of the Energy Act 2008[2] and other EU-derived domestic legislation which transposed Directive 2009/31/EC on the geological storage of carbon dioxide in relation to England and Wales[3] **]** [1].

Notes

1 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(7)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 2008 c. 32. Chapter 3 was amended by paragraph 5(3) of Part 1 of Schedule 4 to the Marine and Coastal Access Act 2009 (c.23), by section 107 of the Energy Act 2011 (c.16), by paragraphs 41 and 53 to 62 of Part 1 of Schedule 1, and paragraph 13 of Schedule 2 to the Energy Act 2016 (c.20) and by S.I. 2011/2453, 2015/664, 2017/524.

3 See for example S.I. 2010/1513, 2221, 2011/1483, 2305, 2453, 2012/461.

Commencement

Sch. 1(2)(6)(6j) para. 1(a): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 1(2)(6)(6j) para. 1(a): England, Wales

[SCHEDULE 1A

Modification of the Directives

Regulation 3

] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

Law In Force

[1.— Modification of the Asbestos Directive

(1) For the purposes of these Regulations, the Asbestos Directive is to be read in accordance with this paragraph.

(2) When interpreting the Asbestos Directive for the purposes of these Regulations—

(a) an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part, except for "waste" which has the meaning given in Article 2(5) of the Asbestos Directive read in accordance with sub-paragraph (3);
(b) the competent authority is the regulator;
(c) a reference to Member States is to be read as a reference to the regulator.

(3) Article 2(5) is to be read as if for "Article 1 of Directive 75/442/EEC[2] " there were substituted "Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive".

(4) Article 3 is to be read as if paragraph 2 were omitted.

(5) Article 5 is to be read as if, in the first paragraph, in point (a), in the first subparagraph, in the second indent, for "competent authorities of the Member States" there were substituted "regulator".

(6) Article 6 is to be read as if—
(a) after paragraph 1 there were inserted—

1A.
In paragraph 1, "regular intervals" means, for the purposes of a regulated facility to which Article 4 applies, intervals of not more than 6 months.";
(b) paragraph 3 were omitted.

(7) Article 8 is to be read as if, in the words before the first indent, the words from "Without" to "Accession," were omitted.

(8) The Annex is to be read as if, in Part B—
(a) in Chapter 1, in paragraph 1, in the second subparagraph—
(i) in the third sentence, for "controlling authority" there were substituted "regulator";
(ii) in the fourth sentence, for "a Member State" there were substituted "the regulator";
(b) in Chapter 2—
(i) in the first paragraph, "subject to the provisions of Article 6(3) of the Directive," were omitted;
(ii) in the second paragraph, for the words from "using" to the end there were substituted "in accordance with Article 7(6) of Directive 2009/148/EC of the European Parliament and of the Council on the protection of workers from the risks related to exposure to asbestos at work[3] ";
(iii) in the third paragraph—
(aa) in point 1, for "controlling authority" there were substituted "regulator";
(bb) in point 8, for the words from "conform" to the end there were substituted "be conducted in accordance with Article 7(6) of Directive 2009/148/EC".

] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

2 OJ No L 194, 25.7.1975, p 47, repealed by Directive 2006/12/EC of the European Parliament and of the Council (OJ No L 114, 27.4.2006, p 9).

3 OJ No L 330, 16.12.2009, p 28.

Extent

Sch. 1A para. 1(1)-(8)(b)(iii)(bb): England, Wales

Law In Force

[2.— Modification of the Basic Safety Standards Directive

(1) For the purposes of these Regulations, the Basic Safety Standards Directive is to be read in accordance with this paragraph.

(2) When interpreting the Basic Safety Standards Directive for the purposes of these Regulations, "radioactive waste" has the meaning given in paragraph 3 of Part 2 of Schedule 23.

(3) Article 4 is to be read as if—

(a) in points (11), (34), (43), (47) and (57), for "competent authority" there were substituted "regulator";

(b) point (79) were omitted;

(c) in point (86), for "competent authority" in both places it occurs substitute "regulator".

(4) Article 12 is to be read as if, in paragraphs 1 and 2, for "Member States" there were substituted "The appropriate authority".

(5) Article 30(4) is to be read as if—

(a) in the first sentence, for "Member States" there were substituted "The regulator";

(b) in the third sentence for "Competent Authority" there were substituted "regulator".

(6) Article 66 is to be read as if—

(a) in paragraphs 1 and 2 , for "Member States" in each place it occurs there were substituted "The regulator";

(b) in paragraph 3, in the words before point (a), for "competent authority" there were substituted "regulator".

(7) Articles 85 to 87 are to be read as if—

(a) for "Member States" in each place it occurs there were substituted "The regulator";

(b) in Articles 85(3) and 86(4), for "competent authority" there were substituted "regulator".

(8) Article 88 is to be read as if, in the words before point (a), for the words from "In addition" to "States" there were substituted "The regulator".

(9) Article 89 is to be read as if—

(a) in the first paragraph—

(i) in the words before point (a)—

(aa) for "Member States" there were substituted "The regulator";

(bb) for "competent authority" there were substituted "regulator";

(ii) in point (b), for "Member States" there were substituted "the appropriate authority";

(b) in the second paragraph, for "competent authority" there were substituted "regulator".

(10) Article 90 is to be read as if—

(a) in the heading, for "competent authority" there were substituted "regulator";

(b) in the first sentence, for "Member States shall ensure that the competent authority keeps" there were substituted "The regulator must keep";

(c) in the third sentence, for "competent authority" there were substituted "regulator".

(11) Article 91 is to be read as if for "Member States" in both places it occurs there were substituted "The regulator".

(12) Annex 7 is to be read as if—

(a) in section 1, in the first sentence, for "competent authority" there were substituted "regulator";

(b) in section 2—

(i) in points (c) and (d), "Community" were omitted;

(ii) in point (e)—

(aa) in the second sentence, for "Article 75" there were substituted "regulation 7 of the Ionising Radiation (Basic Safety Standards) (Miscellaneous Provisions) Regulations 2018";

(bb) in the third sentence, for "competent authority" there were substituted "regulator";

(c) in section 3—

(i) in point (d), for "Member States" there were substituted "the appropriate authority";

(ii) in point (e), in the first paragraph, in the fourth indent, in the third sentence, for "Member States" there were substituted "The appropriate authority";

(d) in Table A Part 1, in the final paragraph, for "competent authority" there were substituted "appropriate authority".

(13) Annex 14 is to be read as if, in the form, in the note, for "Community" there were substituted "United Kingdom".

(14) Annex 15 is to be read as if—

(a) in point (b), for "Member States" there were substituted "the regulator";

(b) in points (d), (e) and (g), for "competent authority" in each place it occurs there were substituted "regulator".

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

Extent

Sch. 1A para. 2(1)-(14)(b): England, Wales

Law In Force

[3.— Modification of the Batteries Directive

(1) For the purposes of these Regulations, the Batteries Directive is to be read in accordance with this paragraph.

(2) Article 2(2)(a) is to be read as if for "Member States' essential security interests" there were substituted "the essential security interests of the United Kingdom".

(3) Article 3 is to be read as if—

(a) in point (7), for "Article 1(1)(a) of Directive 2006/12/EC[2]" there were substituted "Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive";

(b) in point (9), for "Annex IIA to Directive 2006/12/EC" there were substituted "Annex 1 to the Waste Framework Directive".

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

[2] OJ No L 114, 27.4.2006, p 9, repealed by Directive 2008/98/EC of the European Parliament and of the Council (OJ No L 312, 22.11.2008, p 3).

Extent

Sch. 1A para. 3(1)-(3)(b): England, Wales

Law In Force

[4.— Modification of the End-of-Life Vehicles Directive

(1) For the purposes of these Regulations, the End-of-Life Vehicles Directive is to be read in accordance with this paragraph.

(2) When interpreting the End-of-Life Vehicles Directive for the purposes of these Regulations—

(a) an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) a reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before **[** IP completion day **]** [2] , was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion so far as it related to England or Wales.

(3) Article 2 is to be read as if—

(a) for paragraph 1 there were substituted—

"1.
'vehicle' means any motor vehicle;

1A.
'waste' means waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive;";

(b) in paragraph 2, "within the meaning of Article 1(a) of Directive 75/442/EEC" were omitted;

(c) paragraphs 8, 9 and 11 were omitted.

(4) Article 4(2) is to be read as if points (b) and (c) were omitted.

(5) Article 6 is to be read as if—

[(a) in paragraph 1, for "Directive 2008/98/EC of the European Parliament and of the Council" there were substituted "the Waste Framework Directive";] [3]

(b) in paragraph 3, in the words before point (a), for "establishment or undertaking" there were substituted "operator".

(6) In Annex 2, in the table, in table foot note (2a), for the words from "Directive 2006/95/EC[4] " to the end there were substituted "the second subparagraph of Article 1 of Directive 2014/35/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits[5] ,and for these purposes Annex 2 to Directive 2014/35/EU is to be read as if for "Member States participate" there were substituted "United Kingdom participates"".

(7) In sub-paragraph (2)(b), "local authority" means—

(a) in England outside Greater London—

(i) a district council,

(ii) a 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.

] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

2 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

3 Substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

4 OJ No L 374, 27.12.2006, p 10, repealed by Directive 2014/35/EU of the European Parliament and of the Council (OJ No L 96, 29.3.2014, p 357).

5 OJ No L 96, 29.3.2014, p 357.

Extent

Sch. 1A para. 4(1)-(7)(c)(ii): England, Wales

Law In Force

[5.— Modification of the Energy Efficiency Directive

(1) For the purposes of these Regulations, the Energy Efficiency Directive is to be read in accordance with this paragraph.

(2) Annex 1 is to be read as if—

(a) in Part 1—

(i) in point (a)(i) and (ii), for "Member States" there were substituted "the appropriate authority";

(ii) in point (b), in the third paragraph—

(aa) "If Member States introduce" were omitted;

(bb) for the words from ", such default values" to the end there were substituted "must be used if they have been published by the appropriate authority";

(iii) in points (d) and (e), for "Member States" there were substituted "The appropriate authority";

(b) in Part 2, the final paragraph were omitted.

(3) Annex 2 is to be read as if—

(a) in point (b), in the definition of "CHP Eη", the final sentence were omitted;

(b) in point (c)—

(i) in the first paragraph, for "Member States may" there were substituted "It is permissible to";

(ii) in the second paragraph, in the definition of "Eη", the final sentence were omitted;

(c) in point (d)—

(i) "Member States may use" were omitted;

(ii) after "one year" there were inserted "may be used";

(d) in point (f), in the third paragraph, point 4 were omitted.

(4) Annex 9 is to be read as if, in Part 2—

(a) the heading and the words before the first paragraph were omitted;

(b) in the seventh paragraph, "for the purposes of Article 14(5)" were omitted;

(c) the ninth and tenth paragraphs were omitted.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

Extent

Sch. 1A para. 5(1)-(4)(c): England, Wales

Law In Force

[6.— Modification of the Industrial Emissions Directive

(1) For the purposes of these Regulations, the Industrial Emissions Directive is to be read in accordance with this paragraph.

(2) When interpreting the Industrial Emissions Directive for the purposes of these Regulations—

(a) an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part, except for "installation" for the purposes of Schedules 7 and 14, and—

(i) for the purposes of Schedule 7, "installation" means Part A installation;

(ii) for the purposes of Schedule 14, "installation" means a stationary technical unit within which a solvent emission activity is carried out, and any other directly associated activities on the same site which have a technical connection with the solvent emission activity and which could have an effect on emission of volatile organic compounds;

(b) except in point 5 of Annex 4 to the Directive, a reference to "Member States" is to be read as a reference to the competent authority;

(c) the competent authority is—

(i) for the purposes of exercising a judgement as to whether there is an overriding need to maintain energy supplies under Articles 30(6) and 37, the appropriate authority;

(ii) otherwise, the regulator.

(3) Article 3 is to be read as if—

(a) in point (1)—

(i) for the purposes of Schedule 7 only, in the words before point (a), after "its compounds" there were inserted "and any biological entity or micro-organism";

(ii) in point (a), for the words from "Article 1" to the end there were substituted "Article 4 of the Basic Safety Standards Directive";

(b) points (2) to (4) were omitted;

(c) in point (6), for "Union" there were substituted " **[** assimilated **]** [2] " ;

(d) for points (7) and (8) there were substituted—

"(7) 'permit' means environmental permit;

(8) 'general binding rule' —

(i) for the purposes of Schedules 15 and 17 to the Environmental Permitting (England and Wales) Regulations 2016, means emission limit values or other conditions, at least at sector level, that are adopted with the intention of being used directly to set permit conditions;

(ii) otherwise, means a standard rule published under regulation 26 of the Environmental Permitting (England and Wales) Regulations 2016;";

(e) in point (10)(b), for "Member State in question" there were substituted "United Kingdom";

(f) in point (11), after "Article 13" there were inserted "as that Article had effect immediately before **[** IP completion day **]** [3] " ;

(g) in point (12), for "means a document" there were substituted "except where Article 13(7) applies, means a document annexed to **[** assimilated direct **]** [4] legislation made under Article 13(5) as that Article had effect immediately before **[** IP completion day **]** [3] " ;

(h) points (18) and (20) were omitted;
(i) in point (23), for the words from "point 1 of Article 2" to the end there were substituted "point 1 of the second subparagraph of Article 2 of Council Directive 2009/158/EC on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs[5] ;";
(j) point (25) were omitted;
(k) in point (36), for the words from "point 26" to the end there were substituted "Article 2(26) of Directive 2009/72/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity[6] ;";
(l) points (37), (38), (40), (41) were omitted.

(4) Article 5 is to be read as if—
(a) in paragraph 1, "or Union" were omitted;
(b) in paragraph 3, a reference to a numbered Article of Directive 85/337/EEC[7] were a reference to the EU-derived domestic legislation which transposed the same numbered Article of Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment in respect of England and Wales.

(5) Article 7 is to be read as if, in the words before point (a), the words from "Directive 2004/35/EC[8] " to "damage" there were substituted "the Environmental Damage (Prevention and Remediation) (England) Regulations 2015[9] and the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009[10] ".

(5A) Article 9 is to be read as if—
(a) in paragraph 2, for "Member States" there were substituted "the competent authority";
(b) in paragraph 4, for the words from "to 3 shall not" to the end, substitute "and 2 and the references to Annex 1 to Directive 2003/87/EC in both are to be read as if for "in a storage site permitted under Directive 2009/31/EC[11] " in each place in which those words occur in that Annex, there were substituted "in a storage site permitted under Chapter 3 of Part 1 of the Energy Act 2008 or other domestic legislation which immediately before [IP completion day] [3] implemented Directive 2009/31/EC".

(6) Article 11(d) and (e) is to be read as if, for "Directive 2008/98/EC[12] " there were substituted "the Waste Framework Directive".

(7) Article 12(2) is to be read as if—
(a) for "Directive 85/337/EEC" there were substituted "the EU-derived domestic legislation which transposed Directive 2011/92/EU in respect of England and Wales";
(b) for "Directive 96/82/EC[13] " there were substituted "the Control of Major Accident Hazards Regulations 2015[14] ".

(8) Article 13 is to be read as if—
(a) paragraphs 1 to 6 were omitted;
(b) in paragraph 7, for the words from "Pending" to "paragraph 5, the" there were substituted "In the absence of a BAT conclusion, any relevant".

(9) Article 14 is to be read as if—
(a) in paragraph 4, the second sentence were omitted;
(b) in paragraph 7, for "the legislation" there were substituted " [assimilated] [15] law" .

(10) Article 15 is to be read as if—

(a) in paragraph 3, in the words before point (a), "referred to in Article 13(5)" were omitted;
(b) in paragraph 4, the fifth subparagraph were omitted.

(11) Article 21 is to be read as if—
(a) in paragraph 1, for the words from "Member States" to "periodically reconsiders" there were substituted "The competent authority must periodically reconsider";
(b) in paragraph 3—
(i) in the first subparagraph, in the words before point (a), for "decisions on BAT conclusions in accordance with Article 13(5)" there were substituted "BAT conclusions";
(ii) in the second subparagraph, "in accordance with Article 13(5)" were omitted.

(12) Article 22 is to be read as if—
(a) in paragraph 1—
(i) for the words from "Directive 2000/60/EC[16] "to "deterioration" there were substituted "the legislation listed in paragraph 1A";
(ii) for "Union" there were substituted " **[** assimilated **]** [17] " ;
(b) after paragraph 1 there were inserted—

"1A.—
The legislation referred to in paragraph 1 is—
(a) the EU-derived domestic legislation which transposed Directive 2000/60/EC in respect of England and Wales[18] ;
(b) the Environmental Damage (Prevention and Remediation) (England) Regulations 2015;
(c) the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009;
(d) Schedule 22 to the Environmental Permitting (England and Wales) Regulations 2016 and the other EU-derived domestic legislation which transposed Directive 2006/118/EC[19] in respect of England and Wales[20] .";
(c) in paragraph 2—
(i) in the fourth subparagraph, for "Union" there were substituted " **[** assimilated **]** [21] " ;
(ii) the fifth subparagraph were omitted.

(13) Article 23 is to be read as if—
(a) in paragraph 4—
(i) in the fourth subparagraph, point (c) were omitted;
(ii) the fifth subparagraph were omitted;
(b) in paragraph 6, in the second subparagraph, for the words from "Directive 2003/4/EC[22] " to "environmental information" there were substituted "the Environmental Information Regulations 2004[23] ".

(14) Article 24(4) is to be read as if, for "Article 4(1) and (2) of Directive 2003/4/EC" there were substituted "the exceptions in Part 3 of the Environmental Information Regulations 2004".

(15) Article 30 is to be read as if—
(a) in paragraph 5 the second sub-paragraph were omitted;
(b) in paragraph 6, the third subparagraph were omitted.

(16) Article 31 is to be read as if—

(a) in paragraph 1, the words from "and with prior validation" to the end were omitted;

(b) in paragraph 2, for "points 3.1 or" there were substituted "point".

(17) Article 32 is to be read as if—

(a) a reference to the plan or transitional national plan were a reference to the UK transitional plan prepared by the Secretary of State and submitted to the European Commission on 20th October 2015;

(b) in paragraph 2, in the second subparagraph, the words ", pursuant in particular to the requirements of Directives 2001/80/EC[24] and 2008/1/EC[25] ," were omitted;

(c) in paragraph 3, the second subparagraph were omitted.

(18) Article 33 is to be read as if—

(a) in paragraph 1—

(i) in the words before point (a)—

(aa) the reference to the transitional national plan were a reference to the UK transitional plan prepared by the Secretary of State and submitted to the European Commission on 20th October 2015;

(bb) "referred to in Article 32" were omitted;

(ii) at the end of point (b) there were inserted "and";

(iii) in point (c), the words ", pursuant in particular to the requirements of Directives 2001/80/EC and 2008/1/EC," were omitted;

(iv) point (d) (and the "and" immediately preceding it) were omitted;

(b) in paragraph 2—

(i) for "Commission" in both places it occurs there were substituted "appropriate authority";

(ii) in the first sentence, for "each Member State" substitute "the regulator".

(19) Articles 34(1) and 35(1)(d) are to be read as if the words ", pursuant in particular to the requirements of Directives 2001/80/EC and 2008/1/EC," were omitted.

(20) Article 42(2)(a)(iii) is to be read as if, for the words from "Regulation (EC) No 1774/2002" to the end there were substituted "Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption".

(21) Article 44(d) is to be read as if "and Union" were omitted.

(22) Article 45(1)(a) is to be read as if for "European Waste List established by" there were substituted "List in".

(23) Article 50(3) is to be read as if, in the second subparagraph, for the words from "Article 2(2)" to the end there were substituted "regulation 2(1) of the Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007[26] ".

(24) Article 51 is to be read as if—

(a) in paragraph 1, the second sentence were omitted;

(b) in paragraph 4—

(i) for "Commission" there were substituted "appropriate authority";

(ii) the words from "as part" to the end were omitted.

(25) Article 52 is to be read as if—

(a) in paragraph 2, for "European Waste List established by" there were substituted "List in";
(b) in paragraph 4(a), for "Directive 2008/98/EC" there were substituted "the Waste Framework Directive".

(26) Article 55(2) is to be read as if, in the first sentence, for "report referred to in Article 72 shall include" there were substituted "regulator must provide to the appropriate authority".

(27) Article 59 is to be read as if—
(a) in paragraph 1, the second subparagraph were omitted;
(b) in paragraph 4—
(i) for "Commission" there were substituted "appropriate authority";
(ii) "in accordance with Article 72(2)" were omitted.

(28) Article 65(3) is to be read as if for "restrictions laid down in Article 4(1) and (2) of Directive 2003/4/EC" there were substituted "exceptions in Part 3 of the Environmental Information Regulations 2004".

(29) Annex 1 is to be read as if—
(a) in the words before point 1, the second paragraph were omitted;
(b) in point 5.3—
(i) in point (a), in the words before point (i), for "Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment" there were substituted "the Urban Waste Water Treatment (England and Wales) Regulations 1994";
(ii) in point (b), in the words before point (i), for "Directive 91/271/EEC" there were substituted "the Urban Waste Water Treatment (England and Wales) Regulations 1994";
(c) in point 5.4, the words from ", as defined" to "of waste" were omitted;
(d) in point 6.9, for "Directive 2009/31/EC" there were substituted "Chapter 3 of Part 1 of the Energy Act 2008 and other EU-derived domestic legislation which transposed Directive 2009/31/EC on the geological storage of carbon dioxide in relation to England and Wales";
(e) in point 6.11, for "Directive 91/271/EEC" there were substituted "the Urban Waste Water Treatment (England and Wales) Regulations 1994".

(30) Annex 2 is to be read as if, in the Section headed "Water", in paragraph 13, for "Directive 2000/60/EC" there were substituted "the Water Framework Directive".

(31) Annex 4 is to be read as if—
(a) in point 1(b), for the words from "consultations" to the end there were substituted "a consultation in accordance with paragraph 10(2A)(a) of Schedule 5 to the Environmental Permitting (England and Wales) Regulations 2016";
(b) in point 2—
(i) in point (a) "or authorities" were omitted;
(ii) in point (b), for "Directive 2003/4/EC" there were substituted "the Environmental Information Regulations 2004";
(c) in point 5, for "Member States" there were substituted "appropriate authority".

(32) Annex 6 is to be read as if—
(a) in Part 4—
(i) in point 1, in the definition of "Vproc", "Union or" were omitted;
(ii) point 3.1 were omitted;

(b) in Part 5, in entry 1 of the table, in the first column, after "defined in" there were inserted "the third entry of Table 1 in";

(c) in Part 6, in point 2.1(c), after "furans" there were inserted "and dioxin-like polychlorinated biphenyls and polycyclic aromatic hydrocarbons", but only in the case of particular plants where the regulator can demonstrate that emissions of those additional substances are, or are likely to be, significant.

] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

2 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(c)(i) (February 27, 2025)

3 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

4 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(c)(ii) (February 27, 2025)

5 OJ No L 343, 22.12.2009, p 74, as last amended by Commission Implementing Decision 2011/879/EU (OJ No L 343, 23.12.2011, p 105).

6 OJ No L 211, 14.8.2009, p 55.

7 OJ No L 175, 5.7.1985, p 40, repealed by Directive 2011/92/EU of the European Parliament and of the Council (OJ No L 26, 28.1.2012, p 1).

8 OJ No L 143, 30.4.2004, p 56, as last amended by Directive 2013/30/EU of the European Parliament and of the Council (OJ No L 178, 28.6.2013, p 66).

9 S.I. 2015/810, to which there are amendments not relevant to these Regulations.

10 S.I. 2009/995 (W 81), to which there are amendments not relevant to these Regulations.

11 Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006.

12 OJ No L 312, 22.11.2008, p 3.

13 OJ No L 10, 14.1.1997, p 13, repealed by Directive 2012/18/EU of the European Parliament and of the Council (OJ No L 197, 24.7.2012, p 1).

14 S.I. 2015/483, to which there are amendments not relevant to these Regulations.

15 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(c)(iii) (February 27, 2025)

16 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).

17 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(c)(iv) (February 27, 2025)

18 See for example the Coast Protection Act 1949 (c.74), the Salmon and Freshwater Fisheries Act 1975 (c.51), the Food and Environment Protection Act 1985 (c.48), the Environmental Protection Act 1990 (c.43), the Water Industry Act 1991 (c.56), the Water Resources Act 1991 (c.57), the Land Drainage Act 1991 (c.59), the Environment Act 1995 (c.25), the Water Act 2003 (c.37), the Marine and Coastal Access Act 2009 (c.23), and S.I. 1986/1510, 1989/1263, 1994/2841, 2001/2954, 2003/3245, 2004/99, 2007/1518, 2009/995 (W 81), 3104, 2010/639, 740, 1493 (W 136), 2011/735, 2015/483, 668, 810, 2016/614, 2017/407, 2018/151.

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

20 See for example S.I. 2003/3245, 2004/99, 2009/995 (W 81), 2015/810, 1937 (W 291), 2017/407.

21 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(c)(v) (February 27, 2025)

[22] OJ No L 41, 14.2.2003, p 26.

[23] S.I. 2004/3391, as amended by paragraphs 305 and 307 of Schedule 19 to the Data Protection Act 2018 (c. 12).

[24] OJ No L 309, 27.11.2001, p 1, repealed by Directive 2010/75/EU of the European Parliament and of the Council (OJ No L 334, 17.12.2010, p 17).

[25] OJ No L 24, 29.1.2008, p 8, repealed by Directive 2010/75/EU of the European Parliament and of the Council (OJ No L 334, 17.12.2010, p 17).

[26] S.I. 2007/79, amended by S.I. 2014/1975.

Extent

Sch. 1A para. 6(1)-(32)(c): England, Wales

Law In Force

[7.— Modification of the Landfill Directive

(1) For the purposes of these Regulations, the Landfill Directive is to be read in accordance with this paragraph.

(2) When interpreting the Landfill Directive for the purposes of these Regulations—

(a) an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) "landfill permit" or "permit" means environmental permit;

(c) "nature protection zone" means any—

(i) European site (which has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2017), or

(ii) site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981[2]);

(d) a reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before [IP completion day][3] , was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion so far as it related to England or Wales;

(e) the competent authority is the regulator.

(3) Article 1 is to be read as if—

(a) in paragraph 1, the words from "With a view" to "thereof," were omitted;

(b) in paragraph 2, for "Directive 96/61/EC[4] ",in both places it occurs, there were substituted "the Industrial Emissions Directive".

[(4) Article 2 is to be read as if—

(a) for point (a) there were substituted—

> (a) the definitions of 'municipal waste', 'waste producer', 'waste holder', 'waste management', 'separate collection', 'preparing for re-use' and 'recycling' in the Waste Framework Directive apply, with references to 'waste' in those definitions being interpreted in accordance with the definition of 'waste' in Part 1 of the Environmental Permitting (England and Wales) Regulations 2016;";

(b) points (l), (p) and (r) were omitted.

]5

[(5) Article 3 is to be read as if—

(a) in paragraph 2, in the words before the first indent, "Without prejudice to existing Community legislation," were omitted;

(b) for paragraph 3 there were substituted—

"3.

The management of extractive waste is excluded from the scope of this Directive where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to the Environmental Permitting (England and Wales) Regulations 2016.".

]5

(6) Article 5(3) is to be read as if—

(a) in point (b), for "Annex III to Directive 91/689/EEC[6] " there were substituted "Annex 3 to the Waste Framework Directive";

(b) in point (c), for the words from "(property H9" to the end there were substituted "by Annex 3 to the Waste Framework Directive";

(c) in point (d)—

(i) for "two years from the date laid down in Article 18(1)" there were substituted "16th July 2001";

(ii) for "five years from the date laid down in Article 18(1)" there were substituted "from 16th July 2004" [;]1

[(d) in point (f)—

(i) after "waste", in the first place it occurs, there were inserted "paper, metal, plastic and glass";

(ii) the words from "pursuant" to "Article 22 of that Directive" were omitted;

(iii) for "Article 4 of that Directive" there were substituted "Article 4 of the Waste Framework Directive".

]1

[(7) In Article 6, point (a) is to be read as if—

(a) in the first paragraph, in the second sentence, for "may" there were substituted "does";

(b) in the second paragraph, for the words from "of Directive 2008/98/EC" to the end, there were substituted "set out in Part 1 of Schedule 1 to the Waste (England and Wales) Regulations 2011[7] , or any objectives in [assimilated]8 law relating to the increase of preparing for re-use and recycling" .

]5

(8) Article 7 is to be read as if—

(a) in the first subparagraph, in point (h)—

(i) the reference to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment were a reference to the EU-derived domestic legislation which transposed Directive 2011/92/EU in respect of England and Wales;

(iii) the reference to Article 5 of Directive 85/337/EEC were a reference to the EU-derived domestic legislation which transposed Article 5 of Directive 2011/92/EU in respect of England and Wales;

(b) in the second subparagraph, "and Community" were omitted.

(9) Article 8 is to be read as if—

(a) in point (a)—

(i) in point (i), "without prejudice to Article 3(4) and (5)," were omitted;

(ii) in point (iv)—

(aa) in the first sentence, "issued under the provisions of this Directive" were omitted;

(bb) the final sentence were omitted;

(b) in point (b), for "Article 7 of Directive 75/442/EEC" there were substituted "regulation 7 of the Waste (England and Wales) Regulations 2011[9] ".

(10) Article 9 is to be read as if, in the words before point (a), the words from "Specifying" to "Directive 96/61/EC," were omitted.

(11) Article 10 is to be read as if for the words from "Council Directive 90/313/EEC[10] " to "environment" there were substituted "the Environmental Information Regulations 2004".

(12) Article 11(1) is to be read as if—

(a) in point (b)—

(i) in the first indent—

(aa) for "Article 5(3) of Directive 91/689/EEC" there were substituted "Article 19(2) of the Waste Framework Directive";

(bb) for "Council Regulation" to the end there were substituted "Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste";

(ii) in the third indent, "and Community" were omitted;

(b) in point (d), "without prejudice to the provisions of Regulation (EEC) No 259/93," were omitted.

(13) Article 13(d) is to be read as if "Community or" were omitted.

(14) Article 14 is to be read as if—

(a) in the words before point (a), for "within eight years after the date laid down in Article 18(1)" there were substituted "by 16th July 2007";

(b) in point (a), for the words from "with a period" to "Article 18(1)" there were substituted "by 16th July 2000";

(c) in point (c), for "within eight years after the date laid down in Article 18(1)" there were substituted "by 16th July 2007";

(d) in point (d)—

(i) in point (i), for "within one year after the date laid down in Article 18(1)" there were substituted "by 16th July 2000";

(ii) in point (ii), for "within three years after the date laid down in Article 18(1)" there were substituted "by 16th July 2002".

(15) Annex 1 is to be read as if—

(a) in Section 2, for the final sentence there were substituted "The above provisions do not apply to inert landfills.";

(b) in Section 3.3, omit the second paragraph;

(c) in Section 3.4, for "Directive 80/68/EEC[11] " there were substituted "the EU-derived domestic legislation which transposed Directive 2000/60/EC of the European Parliament and of the Council in respect of England and Wales" **[** . **]** [12]
(d) **[…]**[12]

(16) Annex 2 is to be read as if—
(a) Section 1 were omitted;
(b) in Section 2, in the second paragraph, the final sentence were omitted;
(c) in Section 4, in the fourth and fifth paragraphs, for "covered by Directive 91/689/EEC" there were substituted "classified as hazardous waste" **[** . **]** [12]
(d) **[…]**[12]

(17) Annex 3 is to be read as if—
[(a) in Section 2, in the table, in the first column, for "14.00 h CET" in both places it occurs there were substituted "1 p.m."; **]** [5]
(b) in Section 3, in the fourth paragraph, in the table, in table note 7, the words from ", and will report" to the end were omitted.

(18) In sub-paragraph (2)(d), "local authority" has the meaning given in paragraph 4(7).
] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

2 1981 c. 69. Section 52(1) was amended by paragraph 5(1) and (2) of Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37).

3 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

4 OJ No L 257, 10.10.1996, p 26, repealed by Directive 2008/1/EC of the European Parliament and of the Council (OJ No L 24, 29.1.2008, p 8).

5 Substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

6 OJ No L 377, 31.12.1991, p 20, repealed by Directive 2008/98/EC of the European Parliament and of the Council (OJ No L 312, 22.11.2008, p 3).

7 S.I. 2011/988, to which relevant amendments are made by S.I. 2020/904.

8 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(d) (February 27, 2025)

9 S.I. 2011/988, to which there are amendments not relevant to these Regulations.

10 OJ No L 158, 23.6.1990, p 56.

11 OJ No L 20, 26.1.1980, p 43, repealed by Directive 2000/60/EC of the European Parliament and of the Council (OJ No L 327, 22.12.2000, p 1).

12 Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

Extent

Sch. 1A para. 7(1)-(18): England, Wales

Law In Force

[8.— Modification of the Medium Combustion Plant Directive

(1) For the purposes of these Regulations, the Medium Combustion Plant Directive is to be read in accordance with this paragraph.

(2) When interpreting the Medium Combustion Plant Directive for the purposes of these Regulations—

(a) except where defined in this paragraph, an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is the regulator;

(c) "general binding rule" means a standard rule published under regulation 26;

(d) a reference to "Member States" is to be read as a reference to the regulator;

(e) "permit" means environmental permit;

(f) a reference to Directive 2010/75/EU[2] is to be read as if it were a reference to the Industrial Emissions Directive.

(3) Article 2 is to be read as if—

(a) in paragraph 3(b), for "Directive 97/68/EC of the European Parliament and of the Council[3] " there were substituted "Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery";

(b) in paragraph 4, the second sentence were omitted.

(4) Article 3 is to be read as if points (1), (5) and (17) were omitted.

(5) Article 6 is to be read as if—

(a) in paragraph 1, the second subparagraph were omitted;

(b) paragraphs 8, 11 and 12 were omitted.

(6) Article 7 is to be read as if—

(a) in paragraph 5(c), for "Article 6(8)" there were substituted "paragraph 8(1) of Schedule 25A to the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph 7, in the first sentence, for "Article 8" there were substituted "Article 8(2) and (3)".

(7) Annex 1 is to be read as if, in point 7, for "Article 6(8)" there were substituted "paragraph 8(1) of Schedule 25A to the Environmental Permitting (England and Wales) Regulations 2016".

(8) Annex 3 is to be read as if—

(a) in Part 1, in point 2, for "Article 6(8)" in each place it occurs there were substituted "paragraph 8(1) of Schedule 25A to the Environmental Permitting (England and Wales) Regulations 2016";

(b) in Part 2, in point 3, for "Article 6(11) and Article 6(12)" there were substituted "paragraph 11(2) and (4) of Schedule 25A to the Environmental Permitting (England and Wales) Regulations 2016".

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

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

[3] OJ No L 59, 27.2.1998, p 1, repealed by Regulation (EU) 2016/1628 of the European Parliament and of the Council (OJ No L 252, 16.9.2016, p 53).

Extent

Sch. 1A para. 8(1)-(8)(b): England, Wales

Law In Force

[9.— Modification of the Mining Waste Directive

(1) For the purposes of these Regulations, the Mining Waste Directive is to be read in accordance with this paragraph.

(2) When interpreting the Mining Waste Directive for the purposes of these Regulations—

(a) except where defined in this paragraph, an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) "permit" means an environmental permit;

(c) a reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before [IP completion day] [2] , was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion so far as it related to England or Wales;

(d) the competent authority is the regulator.

(3) Article 2 is to be read as if—

(a) in paragraph 2(c), for "Directive 2000/60/EC" there were substituted "the Water Framework Directive";

(b) in paragraph 3, the second and third subparagraphs were omitted;

(c) paragraph 4 were omitted.

(4) Article 3 is to be read as if—

(a) points (1) and (2) were omitted;

(b) in point (4), for the words from "the national law" to the end there were substituted "national law";

(c) in point (17), for "Directive 67/548/EEC[3] or Directive 1999/45/EC[4] " there were substituted "Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures";

(d) in point (18), for "Article 2(11) of Directive 96/61/EC" there were substituted "Article 3(10) of the Industrial Emissions Directive";

(e) in point (19), for "Directive 2000/60/EC" there were substituted "the Water Framework Directive";

(f) point (24) were omitted;

(g) in point (26), for the words from "the national law" to "operates" there were substituted "national law";

(h) point (27) were omitted.

(5) Article 5 is to be read as if—

(a) in paragraph 2(a)(iii) and (b), "at Community level" were omitted;

(b) in paragraph 3(g), for "Directive 2000/60/EC" there were substituted "the EU-derived domestic legislation which transposed Directive 2000/60/EC of the European Parliament and of the Council in respect of England and Wales";
(c) in paragraph 5, "national or Community" were omitted.

(6) Article 6 is to be read as if—
(a) in paragraph 1, for "Directive 96/82/EC" there were substituted "the Control of Major Accident Hazards Regulations 2015";
(b) in paragraph 2, the words from "Without prejudice" to "92/104/EEC," were omitted.

(7) Article 7 is to be read as if—
(a) in paragraph 1, in the second subparagraph, "national or Community" were omitted;
(b) in paragraph 2(e), a reference to Directive 85/337/EEC were a reference to the EU-derived domestic legislation which transposed Directive 2011/92/EU in respect of England and Wales;
(c) in paragraph 3(b), for "Article 7 of Directive 75/442/EC" there were substituted "regulation 7 of the Waste (England and Wales) Regulations 2011";
(d) in paragraph 4, the third indent were omitted;
(e) in paragraph 5, "and Community" were omitted.

(8) Article 8 is to be read as if—
(a) in paragraph 1(b), for the words from "between" to the end there were substituted "in accordance with paragraph 10(2A)(a) of Schedule 5 to the Environmental Permitting (England and Wales) Regulations 2016";
(b) in paragraph 2(b), for the words from "provisions" to "environmental information" there were substituted "Environmental Information Regulations 2004".

(9) Article 10(2) is to be read as if for "Directive 1999/31/EC[5] " there were substituted "The Landfill Directive".

(10) Article 11(2)(a) is to be read as if—
(a) "Community or" were omitted;
(b) for "Directives 76/464/EEC[6] , 80/68/EEC and 2000/60/EC" there were substituted "the EU-derived domestic legislation which transposed Directive 2000/60/EC of the European Parliament and of the Council in respect of England and Wales".

(11) Article 12 is to be read as if—
(a) in paragraph 4, "or Community" were omitted;
(b) in paragraph 5, in the words before point (a)—
(i) for "Community legislation" there were substituted " [assimilated][7] law" ;
(ii) for "Directives 76/464/EEC, 80/68/EEC and 2000/60/EC" there were substituted "the EU-derived domestic legislation which transposed Directive 2000/60/EC of the European Parliament and of the Council in respect of England and Wales".

(12) Article 13 is to be read as if—
(a) in paragraph 1, in the words before point (a)—
(i) "Community" were omitted;
(ii) for "Directive 2000/60/EC" there were substituted "the EU-derived domestic legislation which transposed Directive 2000/60/EC of the European Parliament and of the Council in respect of England and Wales";

(b) in paragraph 3, for "Directives 76/464/EEC, 80/68/EEC or 2000/60/EC" there were substituted "the EU-derived domestic legislation which transposed Directive 2000/60/EC of the European Parliament and of the Council in respect of England and Wales";
(c) in paragraph 4, for "Directives 76/464/EEC, 80/68/EEC and 2000/60/EC" there were substituted "the EU-derived domestic legislation which transposed Directive 2000/60/EC of the European Parliament and of the Council in respect of England and Wales";
(d) in paragraph 5, in the second sentence—
(i) for "Community" there were substituted " [assimilated] [8] law" ;
(ii) for "Directive 2000/60/EC" there were substituted "the EU-derived domestic legislation which transposed Directive 2000/60/EC of the European Parliament and of the Council in respect of England and Wales".

(13) Article 20 is to be read as if, in the second sentence, the words from ", taking into account" to the end were omitted.

(14) Article 24(4) is to be read as if, in the second indent, "Community or" were omitted.

(15) Annex 3 is to be read as if—
(a) in the second indent, for "Directive 91/689/EEC" there were substituted "the Waste Framework Directive";
(b) in the third indent, for "Directives 67/548/EEC or 1999/45/EC" there were substituted "Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures".

(16) In sub-paragraph (2)(c), "local authority" has the meaning given in paragraph 4(7).
] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

2 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commended by an amendment)

3 OJ No 196, 16.8.1967, p 1 (Special Edition Series I Volume 1967 p 234), repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L 353, 31.12.2008, p 1).

4 OJ No L 200, 30.7.1999, p 1, repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L 353, 31.12.2008, p 1).

5 OJ No L 182, 16.7.1999, p 1.

6 OJ No L 129, 18.5.1976, p 23, repealed by Directive 2006/11/EC of the European Parliament and of the Council (OJ No L 64, 4.3.2006, p 52).

7 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(e)(i) (February 27, 2025)

8 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(e)(ii) (February 27, 2025)

Extent

Sch. 1A para. 9(1)-(16): England, Wales

Law In Force

[10.— Modification of PVR I

(1) For the purposes of these Regulations, PVR I is to be read in accordance with this paragraph.

(2) Article 2(k) is to be read as if for the words from "Chapter 1" to the end there were substituted "regulation 3 of the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010[2] ".

(3) Article 4 is to be read as if—

(a) in paragraph 1, in the sixth subparagraph, the second and third sentences were omitted;

(b) in paragraph 4, the second subparagraph were omitted.

(4) Annex 1 is to be read as if, in point 1, in the third sentence—

(a) for "Member States" there were substituted "The regulator";

(b) "special landscape areas which have been designated by national authority" included the Broads, the New Forest and any National Park or Area of Outstanding Natural Beauty.

(5) Annex 2 is to be read as if—

(a) in point 2—

(i) in the second paragraph—

(aa) in the words before the first indent, for "United Kingdom" there were substituted "regulator";

(bb) in the third indent, for "Commission" there were substituted "appropriate authority";

(ii) in the third paragraph, for "Member States' competent authorities" there were substituted "regulator";

(b) in points 3 and 4, for "Member States' competent authorities" there were substituted "regulator".

(6) Annex 4 is to be read as if points 2.3, 3.2 and 3.5 were omitted.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

[2] S.I. 2010/1075, amended by S.I. 2018/53.

Extent

Sch. 1A para. 10(1)-(6): England, Wales

Law In Force

[11.— Modification of PVR II

(1) For the purposes of these Regulations, PVR II is to be read in accordance with this paragraph.

(2) Article 3(1) to (3) is to be read as if "Member States shall ensure that" were omitted.

(3) Article 4 is to be read as if—

(a) in paragraph 1, for the words from "Member States" to "such systems is" there were substituted "The petrol vapour capture efficiency of Stage II petrol vapour recovery systems must be";
(b) in paragraph 2, the words from "With effect" to "Article 3," were omitted.

(4) Article 5 is to be read as if—
(a) "Member States shall ensure that", in each place it occurs, were omitted;
(b) in paragraph 1, for "is" there were substituted "must be";
(c) in paragraph 2, in the first sentence, for "is" there were substituted "must be";
(d) in paragraph 3, for "displays" there were substituted "must display".
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

Extent

Sch. 1A para. 11(1)-(4)(d): England, Wales

Law In Force

[12.— Modification of the Waste Framework Directive

(1) For the purposes of these Regulations, the Waste Framework Directive is to be read in accordance with this paragraph.

[(2) When interpreting the Waste Framework Directive for the purposes of these Regulations—
(a) an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part;
(b) "permit" means an environmental permit;
(c) a reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before IP completion day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion so far as it related to England or Wales;
(d) the competent authority is the regulator.
] [2]

(3) Article 2 is to be read as if—
(a) in paragraph 2—
(i) in the words before point (a), for "other Community legislation" there were substituted " [assimilated] [3] law" ;
(ii) in points (b) and (c), for "Regulation (EC) No 1774/2002" there were substituted "Regulation (EC) No 1069/2009";
(iii) in point (d), for the words from "Directive 2006/21/EC[4] " to the end there were substituted "the Mining Waste Directive";
(b) in paragraph 3, the words from "Without prejudice" to "Community legislation," were omitted.

(4) Article 3(20) is to be read as if for "Article 2(11) of Directive 96/61/EC" there were substituted "Article 3(10) of the Industrial Emissions Directive".

(5) Article 4(2) is to be read as if the second subparagraph were omitted.

[(6) Article 5 is to be read as if—

(a) in paragraph 1, "Member States shall take appropriate measures to ensure that" were omitted;

(b) after paragraph 1 there were inserted—

1A.—

Any decision as to whether a substance or object is a by-product must be made—

(a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and

(b) having regard to any guidance published by the appropriate authority or the appropriate agency for the purposes of this Article.";

(c) paragraphs 2 and 3 were omitted.

(7) Article 6 is to be read as if—

(a) in paragraph 1, "Member States shall take appropriate measures to ensure that" were omitted;

(b) after paragraph 1 there were inserted—

"1A.—

Any decision as to whether a substance or object has ceased to be waste must be made—

(a) in accordance with any regulations or **[** assimilated direct **]** [6] legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and

(b) having regard to any guidance published by the appropriate authority or the appropriate agency for the purposes of this Article.";

(c) in paragraph 2—

(i) the first subparagraph were omitted;

(ii) in the second subparagraph, for "Those detailed criteria" there were substituted "Any detailed criteria set out in guidance as referred to in paragraph 1A";

(iii) the third and fourth subparagraphs were omitted;

(d) paragraph 3 were omitted;

(e) in paragraph 4—

(i) in the first subparagraph—

(aa) in the first sentence, for the words from the beginning to "Member State", there were substituted "Where criteria have not been set out as referred to in paragraph 1A(a), the appropriate agency";

(bb) the second sentence were omitted;

(ii) in the second subparagraph—

(aa) for "Member States" there were substituted "The appropriate agency";

(bb) "by competent authorities" were omitted.

(8) Article 7 is to be read as if—

(a) before paragraph 1 there were inserted—

> **"A1.**
> In this Article, the "list of waste" means the list contained in the Annex to Commission Decision 2000/532/EC, as that list has effect in England or in Wales (as the case may be).";

(b) in paragraph 1—

(i) the first and second sentences were omitted;

(ii) for the third sentence there were substituted "The list of waste shall, except as provided in Commission Decision 2000/532/EC, be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.";

(c) paragraphs 2, 3, 6 and 7 were omitted.

] [5]

(9) Article 19(2) is to be read as if, for "a Member State" there were substituted "the United Kingdom".

[(9A) Article 35(1) is to be read as if, for the second paragraph, there were substituted—

> "They shall make that data available to the regulator through any electronic registry established for the reporting of such data or, if no such registry is in operation, in such form and manner as the regulator may specify.".

] [1]

(10) Annex 3 is to be read as if, in entry HP 9, in the second sentence, "in the Member States" were omitted.

[(11) Annex 4a is to be read as if, in point 6, ", including through Union funds" were omitted.

(12) In sub-paragraph (2)(c), "local authority" has the meaning given in paragraph 4(7). **]** [1]

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

[2] Substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

[3] Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(f)(i) (February 27, 2025)

[4] OJ No L 102, 11.4.2006, p 15, as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).

[5] Substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendmenet)

[6] Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 Sch.15(1) para.38(f)(ii) (February 27, 2025)

Extent

Sch. 1A para. 12(1)-(12): England, Wales

Law In Force

[13.— Modification of the Water Framework Directive

(1) For the purposes of these Regulations, the Water Framework Directive is to be read in accordance with this paragraph.

(2) Article 2 is to be read as if paragraph 30 were omitted.

(3) Article 11(3)(j) is to be read as if—

(a) the reference to "Member States" were a reference to the appropriate authority or appropriate agency;

(b) in the words after the final indent, for "established for that body of groundwater" there were substituted "(which has the meaning given in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016) in relation to a river basin district".

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

Extent

Sch. 1A para. 13(1)-(3)(b): England, Wales

Law In Force

[14.— Modification of the WEEE Directive

(1) For the purposes of these Regulations, the WEEE Directive is to be read in accordance with this paragraph.

(2) A reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before **[** IP completion day **]** [2], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion so far as it related to England or Wales.

(3) Article 2 is to be read as if—

(a) paragraph 2 were omitted;

(b) in paragraph 3(a), for "Member States" there were substituted "the United Kingdom";

(c) paragraph 5 were omitted.

(4) Article 3(1) is to be read as if—

(a) after point (a) there were inserted—

"(aa) 'waste' means waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive;

(ab) 'hazardous waste' has the meaning given by regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016;";

(b) in point (e), "within the meaning of Article 3(1) of Directive 2008/98/EC" were omitted;

(c) in point (f)—

(i) in the words before point (i), for the words from "distance communication" to the end, there were substituted "by means of distance communication";

(ii) in points (i) and (ii)—

(aa) for "a Member State" there were substituted "the United Kingdom";

(bb) for "territory of that Member State" there were substituted "United Kingdom";

(cc) for point (iii) there were substituted—

"(iii) is established in the United Kingdom and places on the market, on a professional basis, EEE from another country; or";

(iii) in point (iv), in the first subparagraph —

(aa) for "a Member State" there were substituted "the United Kingdom";

(bb) "Member State or in a third" were omitted;

(d) in point (j), for "a Member State" there were substituted "the United Kingdom";

(e) in point (k), for "territory of a Member State" there were substituted "United Kingdom";

(f) for points (m) to (o) there were substituted—

"(m) 'medical device' means a medical device within the meaning of regulation 2(1) of the Medical Devices Regulations 2002[3] which is EEE;

(n) 'in vitro diagnostic medical device' means an in vitro diagnostic medical device within the meaning of regulation 2(1) of the Medical Devices Regulations 2002 which is EEE;

(o) 'active implantable medical device' means an active implantable medical device within the meaning of regulation 2(1) of the Medical Devices Regulations 2002 which is EEE.".

(5) Article 3(2) is to be read as if—

(a) '"hazardous waste'," were omitted;

(b) for "Directive 2008/98/EC" there were substituted "the Waste Framework Directive".

(6) Article 8(5) is to be read as if the second to fifth subparagraphs were omitted.

(7) Article 9 is to be read as if—

(a) in paragraph 3—

(i) "or the registration referred to in paragraphs 1 and 2" were omitted;

(ii) the words from "and for the" to the end were omitted;

(b) after paragraph 3 there were inserted—

"4.

In paragraph 3, "permit" means environmental permit.".

(8) Annex 7 is to be read as if, in paragraph 1—

(a) in the first subparagraph—

(i) in the first indent, for the words from "Council Directive 96/59/EC[4] " to the end there were substituted "the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000[5] ";

(ii) in the thirteenth indent, for the words from "Commission Directive 97/69/EC[6] " to the end there were substituted "Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures";

(iii) in the fourteenth indent, for the words from "Article 3" to the end there were substituted "Annex 7 to the Basic Safety Standards Directive";

(b) in the second subparagraph, for "Directive 2008/98/EC" there were substituted "the Waste Framework Directive".

(9) Annex 8 is to be read as if, in paragraph 1, in the words before the first indent, the words from "(without prejudice" to "landfill of waste)" were omitted.

(10) In sub-paragraph (2), "local authority" has the meaning given in paragraph 4(7).

(11) In sub-paragraph (4)(c)(i), "by means of distance communication" has the meaning given by regulation 3(1) of the Consumer Protection (Distance Selling) Regulations 2000[7] .

] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

2 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 Sch.1 para.1 (December 31, 2020: commenced by an amendment)

3 S.I. 2002/618, amended by S.I. 2008/2936; there are other amending instruments but none is relevant.

4 OJ No L 243, 24.9.1996, p 31, as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).

5 S.I. 2000/1043, amended by S.I. 2000/3359, 2005/894, 1806 (W 138), 2010/1159, 1820 (W 177), 2011/988, 2013/755 (W 90).

6 OJ No L 343, 13.12.1997, p 19, repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L 353, 31.12.2008, p 1).

7 to which there are amendments not relevant to these Regulations.

Extent

Sch. 1A para. 14(1)-(11): England, Wales

SCHEDULE 2

Exempt facilities: general

Regulation 4

Law In Force

1.— Interpretation: general

(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 T33, D1 to D8 or S1 to S3 **]** [1] has the meaning given in paragraph 1(8) of Chapter 1 of Part 1 of Schedule 3.

Notes

[1] Word substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(3)(a) (October 1, 2020)

Commencement

Sch. 2 para. 1(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 1(1)-(2): England, Wales

Law In Force

2.— Interpretation: exemption registration authority and exemption authority

(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—
(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.

Commencement

Sch. 2 para. 2(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 2(1)-(5): England, Wales

Law In Force

3. General condition

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).

Commencement

Sch. 2 para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 3: England, Wales

Law In Force

4.— Exempt waste operations

(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.

Commencement

Sch. 2 para. 4(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 4(1)-(2): England, Wales

Law In Force

5. Exempt water discharge activities: Wales

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.

Commencement

Sch. 2 para. 5(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 5(a)-(c): England, Wales

Law In Force

6. Exempt water discharge activities: England

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.

Commencement

Sch. 2 para. 6(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 6(a)-(c): England, Wales

Law In Force

7. Exempt groundwater activities: Wales

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.

Commencement

Sch. 2 para. 7(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 7(a)-(c): England, Wales

Law In Force

8. Exempt groundwater activities: England

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,

(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.

Commencement

Sch. 2 para. 8(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 8(a)-(c): England, Wales

Law In Force

9. Exempt flood risk activities

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.

Commencement

Sch. 2 para. 9(a)-(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 9(a)-(d): England, Wales

Law In Force

10.— Procedure for registering an exempt facility

(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] .

Notes

[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.

Commencement

Sch. 2 para. 10(1)-(8): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 10(1)-(8): England, Wales

Law In Force

11.— Register of exempt facilities

(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.

Commencement

Sch. 2 para. 11(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 11(1)-(7): England, Wales

Law In Force

12.— Duty to remove entries from the register

(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.

Commencement

Sch. 2 para. 12(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 12(1)-(3): England, Wales

Law In Force

13.— Exclusion from the register of information affecting national security

(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.

Commencement

Sch. 2 para. 13(1)-(10)(b)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 13(1)-(10)(b)(iii): England, Wales

Law In Force

14.— Restrictions on registering exempt waste operations carried on at the same place

(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.

Commencement

Sch. 2 para. 14(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 14(1)-(7): England, Wales

Law In Force

15.— Validity of registration of waste operations

(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.

Commencement

Sch. 2 para. 15(1)-(6) definition of "renewal date": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 15(1)-(6) definition of "renewal date": England, Wales

Law In Force

16.— Changes to relevant particulars relating to waste operations

(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).

Commencement

Sch. 2 para. 16(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 16(1)-(4): England, Wales

Law In Force

17.— Record keeping for exempt waste operations

(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, T12, T14, T15, T30, T33 or U8 **]** [1];

(iii) **[** paragraph T3, T7 or T17 **]** [2] 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 or [the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021] [3] .

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

[(a) keep chronological records of—

(i) the quantity, nature and origin of all waste disposed of or recovered in the course of that operation;

(ii) where the waste operation involves the treatment of hazardous waste, the quantity of products and materials resulting from preparing for re-use, recycling or other recovery operations in the course of that operation; and

(iii) where relevant, the destination, frequency of collection, mode of transport and treatment method of all waste disposed of or recovered in the course of that operation; and

] [4]

(b) where the waste operation falls within a description in [paragraph T3, T7 or T17] [5] 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) if the operation involves the treatment of hazardous waste—

(i) retain any records that it is required to keep under sub-paragraph (3) for a period of 3 years; and

(ii) during that period, if the exemption registration authority so directs, send those records to the exemption registration authority in such form and manner as the exemption registration authority specifies,

(b) if the operation does not involve the treatment of hazardous waste—

(i) retain any records that it is required to keep under sub-paragraph (3) for a period of 2 years; and

(ii) during that period make those records available to the exemption registration authority on request.

] [6]

Notes

1 Words added by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(3)(b)(i)(aa) (October 1, 2020)

2 Words substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(3)(b)(i)(bb) (October 1, 2020)

3 Words substituted by Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021/77 Pt 10 reg.49(1) (April 1, 2021)

4 Substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(3)(b)(ii)(aa) (October 1, 2020)

5 Words substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(3)(b)(ii)(bb) (October 1, 2020)

[6] Substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(3)(b)(iii) (October 1, 2020)

Commencement

Sch. 2 para. 17(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 17(1)-(4)(b)(ii): England, Wales

Law In Force

18. Periodic inspections of establishments and undertakings

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.

Commencement

Sch. 2 para. 18: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 2 para. 18: England, Wales

SCHEDULE 3

Exempt facilities and waste operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions

Regulation 4

PART 1

Exempt waste operations: descriptions and conditions

CHAPTER 1

Interpretation of Part 1

Law In Force

1.— Interpretation

(1) In this Part—

"agricultural land" has the meaning given in section 109(1) of the Agriculture Act 1947 and, for the purposes of the descriptions in paragraphs U10 and U11, includes land used for the production of timber or other non-food crops;

"anaerobic digestion" means the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable waste which—

(a) is carried on under controlled anaerobic conditions, and

(b) results in stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land;

"associated storage" means storage of waste that—

(a) is associated with the use, treatment or disposal of waste, and

(b) takes place at the place where the use, treatment or disposal is carried on;

"bank" means a bank, wall or embankment adjoining or confining, or constructed for the purposes of or in connection with, any channel and includes all land between the bank and low-watermark;

"construction" means the carrying on of building or engineering work which includes the repair, alteration, maintenance or improvement of an existing work and preparatory or landscaping works;

"impermeable surface" means a surface or pavement constructed and maintained to a standard sufficient to prevent the transmission of liquids beyond the surface;

"inland waters" has the meaning given in section 221(1) of the 1991 Act;

"List of Wastes" means the list of wastes established by Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste[1] , as amended from time to time;

"place of production" means, in relation to any waste, the place where the waste was originally produced;

"Plant Health notice" means a notice served under—

(a) article 13 of the Plant Health (Phytophthora ramorum) (Wales) Order 2006[2] ;

(b) article 31 of the Plant Health (Forestry) Order 2005[3] ;

(c) article 32 of the Plant Health (England) Order 2015[2] ;

(d) article 32 of the Plant Health (Wales) Order 2006[4] ;

"relevant waste", where it appears in any paragraph in this Part, means waste that—

(a) falls within a code specified in the first column of the table in the paragraph, and

(b) is of a type specified in the second column of the table;

"scrap metal" has the meaning given in section 21 of the Scrap Metal Dealers Act 2013;

"sealed drainage" means a drainage system with an impermeable surface which ensures that—

(a) no liquid will run off the surface otherwise than via the system, and

(b) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump;

"secondary containment" means a bund or any other system for preventing waste which has leaked from the primary container from escaping from the place where it is stored or treated.

(2) In this Part, a six-digit code used to refer to a waste is a reference to the waste specified by the six-digit code in the List of Wastes, except insofar as the waste in this Part in relation to such a code does not include some of the types of waste specified by the code in the List.

(3) Where a bund is used as secondary containment—

(a) the bund must have an impermeable lining and—

(i) have a capacity of not less than 110% of the original container's storage capacity, or

(ii) if there is more than one container within the containment system, have a capacity of not less than 110% of the largest container's storage capacity or 25% of the aggregate storage capacity, whichever is the greater, and

(b) reasonable precautions must be taken to ensure that the capacities specified in paragraph (a) are maintained at all times.

(4) When interpreting this Part, a container, lagoon or other place is secure in relation to waste kept in it if—

(a) all reasonable precautions are taken to ensure that the waste cannot escape from it, and

(b) members of the public are unable to gain access to the waste.

(5) Where a quantity limit is specified in relation to more than one operation (storage, use or treatment) in any one specific or additional condition, that quantity limit applies to all of those operations on an aggregate basis.

(6) Where a waste operation is carried on by waste mobile plant, the quantity limits specified in any specific or additional specific condition in any Chapter of this Part apply in relation to each place where the operation is carried on.

(7) The quantity limits specified in any specific condition in paragraphs U1, U2, U10, U11, U12 and U15 that relate to the use or storage of waste over a specified period apply for that period regardless of whether more than one establishment or undertaking carries on the operation at the same place over that period.

(8) In this Part—

(a) a reference to any of paragraphs U1 to U16 is a reference to a paragraph numbered 1 to 16 in Section 2 of Chapter 2 (use of waste);

(b) a reference to any of **[** paragraphs T1 to T33 **]** [5] is a reference to a paragraph numbered 1 to **[** 33 **]** [6] in Section 2 of Chapter 3 (treatment of waste);

(c) a reference to any of paragraphs D1 to D8 is a reference to a paragraph numbered 1 to 8 in Section 2 of Chapter 4 (disposal of waste);

(d) a reference to any of paragraphs S1 to S3 is a reference to a paragraph numbered 1 to 3 in Section 2 of Chapter 5 (storage of waste).

Notes

[1] OJ No L 226, 6.9.2000, p 3, as last amended by Commission Decision 2014/955/EU (OJ No L 370, 30.12.2014, p 44).

[2] To which there are amendments not relevant to these Regulations.

[3] Relevant amending instruments are S.I. 2011/1043, 2013/755 (W. 90), 2014/2420 and 2015/1723 (W. 235).

[4] Amended by S.I. 2011/1043; there are other amending instruments but none is relevant.

[5] Word substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(4)(a)(i) (October 1, 2020)

[6] Word substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(4)(a)(ii) (October 1, 2020)

Commencement

Sch. 3(1)(1) para. 1(1)-(8)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(1) para. 1(1)-(8)(d): England, Wales

CHAPTER 2

SECTION 1 Introductory

Law In Force

1.—

(1) The descriptions in this Chapter—

(a) are set out in the first sub-paragraph of paragraphs U1 to U16, and

(b) include associated storage.

(2) The specific conditions for each description in this Chapter are set out in the third sub-paragraph of paragraphs U1 to U16.

(3) The general conditions for all descriptions in this Chapter are as follows—

(a) the operation is for the purposes of recovering or reusing the waste, unless otherwise stated in the specific conditions;

(b) the waste used is suitable for the purposes of the operation;

(c) no more waste is used than is necessary to carry on the operation.

Commencement

Sch. 3(1)(2)(1) para. 1(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(1) para. 1(1)-(3)(c): England, Wales

SECTION 2 Descriptions and specific conditions

Law In Force

1.— Use of waste in construction (U1)

(1) The use of relevant waste in construction.

(2) The tables specifying relevant waste for the purposes of this paragraph are set out below.

Table 1

Codes	*Waste types*	*Quantity limit*	*Additional specific conditions*
010102	Waste from mineral non-metalliferous excavation	5,000 tonnes	
010408	Waste gravel and crushed rock other than those mentioned in 010407		
010409	Waste sand and clays		
020202	Shellfish shells from which the soft tissue or flesh has been removed only		
101208	Waste ceramics, bricks, tiles and construction products (after thermal processing)		
101314	Waste concrete and concrete sludge		
170101	Concrete		
170102	Bricks		
170103	Tiles and ceramics		
170107	Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 170106		
170506	Dredging spoil other than those mentioned in 170505		A
170508	Track ballast other than those mentioned in 170507		
191205	Glass		
191209	Minerals (for example sand, stones)		
191212	Aggregates only		

Table 2

Codes	*Waste types*	*Quantity limit*	*Additional specific conditions*
020399, 020401	Soil from cleaning and washing fruit and vegetables only	1,000 tonnes	
170302	Bituminous mixtures other than those mentioned in 170301	1,000 tonnes	B

Codes	*Waste types*	*Quantity limit*	*Additional specific conditions*
170504	Soil and stones other than those mentioned in 170503	1,000 tonnes	
170506	Dredging spoil other than those mentioned in 170505	1,000 tonnes	
191302	Solid wastes from soil remediation other than those mentioned in 191301	1,000 tonnes	
200202	Soil and stones	1,000 tonnes	
020103	Plant tissue waste	1,000 tonnes	B
030101, 030301	Untreated waste bark, cork and wood only	1,000 tonnes	B
030105	Untreated wood including sawdust, shavings and cuttings from untreated wood only	1,000 tonnes	B
170201	Untreated wood only	1,000 tonnes	B
191207	Untreated wood other than those mentioned in 191206 only	1,000 tonnes	B
200138	Untreated wood other than those mentioned in 200137 only	1,000 tonnes	B

Table 3

Codes	*Waste types*	*Quantity limit*	*Additional specific conditions*
170302	Bituminous mixtures other than those mentioned in 170301	50,000 tonnes	C
170504	Road sub base only		C

(3) For the purposes of this paragraph, the specific conditions are that—

(a) where the relevant waste falls within the first column of a table in sub-paragraph (2), the total quantity of waste used or stored over any 3-year period does not exceed the limit indicated in the third column of that table,

(b) where one or more waste type falling within the first column of any one table in sub-paragraph (2) is used or stored, the total quantity for all the waste types used or stored does not exceed the limit indicated in the third column of that table over any 3-year period,

(c) no waste is stored for longer than 12 months prior to use, and

(d) the operation complies with such of the following additional conditions as are specified in the fourth column of the table and for these purposes—

A	the waste is used only for drainage work carried on for the purposes of the Land Drainage Act 1991, the 1991 Act or the 1995 Act;

B	the waste is used only for the construction of tracks, paths, bridleways or car parks and must be processed into chipped form prior to use;
C	the waste is used only for the construction of roads.

Commencement

Sch. 3(1)(2)(2) para. 1(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 1(1)-(3)(d): England, Wales

Law In Force

2.— Use of baled end-of-life tyres in construction (U2)

(1) The use of relevant waste in construction.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
160103	Baled end-of-life tyres only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste used or stored during the construction does not exceed 50 tonnes of baled tyres,

(b) the waste is not used more than once,

(c) the bales comply with standard PAS108, and

(d) no waste is stored for longer than 3 months prior to use.

Commencement

Sch. 3(1)(2)(2) para. 2(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 2(1)-(3)(d): England, Wales

Law In Force

3.— Use of waste in the construction of entertainment or educational installations etc. (U3)

(1) The use of relevant waste in the construction of installations, exhibits, sets or demonstrations for entertainment or educational purposes.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
170102	Bricks

Codes	*Waste Types*
170103	Tiles and ceramics
170201, 200138	Wood
170203, 200139	Plastic
170401 to 170407, 170411, 200140	Metals including their alloys
200101	Paper and cardboard
200111	Textiles

(3) For the purposes of this paragraph, the specific condition is that the total quantity of waste used or stored prior to use does not exceed 20 tonnes at any one time.

Commencement

Sch. 3(1)(2)(2) para. 3(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 3(1)-(3): England, Wales

Law In Force

4.— Burning of waste as a fuel in a small appliance (U4)

(1) The burning of relevant waste as a fuel in an appliance if the requirements in sub-paragraph (4) are met.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
020103, 200201	Plant tissue waste only
020107, 170201	Untreated wood only
020304	Vegetable waste unsuitable for consumption or processing
030101	Waste bark and cork
030105	Untreated sawdust and wood shavings other than those mentioned in 030104 only
030301	Waste bark and wood
030310	Fibre rejects (fibrous vegetable waste from virgin pulp preparation or paper pulp production) only
150103	Untreated wooden packaging only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste burned over any period of 1 hour is less than 50kg,

(b) the total quantity of waste stored at any one time does not exceed 10 tonnes, and

(c) the waste is stored in a secure place.

(4) The requirements in this sub-paragraph are that—

(a) the appliance has a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

Commencement

Sch. 3(1)(2)(2) para. 4(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 4(1)-(4)(b): England, Wales

Law In Force

5.— Use of waste derived biodiesel as fuel (U5)

(1) The use of biodiesel derived from relevant waste as a fuel in a portable generator if the requirements in sub-paragraph (4) are met or in a motor vehicle and the storage of such biodiesel—

(a) in or on a motor vehicle or in such a portable generator, or

(b) at a place that is owned or occupied by the owner or user of the biodiesel.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
190210	Waste derived biodiesel only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of biodiesel stored in or on a motor vehicle or in a portable generator at any one time does not exceed 1,000 litres,

(b) the total quantity of biodiesel stored at a place owned or occupied by the owner or user of the biodiesel at any one time does not exceed 5,000 litres, and

(c) the biodiesel is stored with secondary containment.

(4) The requirements in this sub-paragraph are that—

(a) the portable generator has a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other portable generators (whether or not it is operated simultaneously with such other generators) the aggregate net rated thermal input of all the generators is less than 0.4 megawatts.

Commencement

Sch. 3(1)(2)(2) para. 5(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 5(1)-(4)(b): England, Wales

Law In Force

6.— Use of sludge for the purposes of re-seeding a waste water treatment plant (U6)

(1) The use of relevant waste at a waste water treatment plant for the purposes of re-seeding the plant.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
190805	Sludges from treatment of urban waste water
190812	Sludges from biological treatment of industrial waste water other than those mentioned in 190811

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste used or stored at the plant at any one time does not exceed 1,000 cubic metres, and

(b) the waste was not produced at the plant.

Commencement

Sch. 3(1)(2)(2) para. 6(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 6(1)-(3)(b): England, Wales

Law In Force

7.— Use of effluent to clean a highway gravel bed (U7)

(1) The use of relevant waste from a water treatment works or a waste water treatment plant to clean a highway gravel bed.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
190899	Effluent only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste used over any 24-hour period does not exceed 10 cubic metres,

(b) the highway gravel bed has sealed drainage to ensure that the condition in paragraph (c) can be met,

(c) all waste used in and produced by the cleaning operation is collected, and

(d) the waste meets any relevant conditions specified in the environmental permit authorising the operation of the water treatment works or waste water treatment plant.

Commencement

Sch. 3(1)(2)(2) para. 7(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 7(1)-(3)(d): England, Wales

Law In Force

8.— Use of waste for a specified purpose (U8)

(1) The use of relevant waste for a specified purpose.

(2) For the purposes of this paragraph—

(a) the table specifying relevant waste and the limits referred to in sub-paragraph (3)(a) and (b) is set out below;

(b) "specified purpose" is a purpose specified in the third column of the table.

Codes	*Waste types*	*Specified purpose*	*Quantity limit (at any one time)*
030105, 191207	Untreated wood (including shavings, woodchip and sawdust) and over-sized compost only	Use in equestrian exercise surfaces	1,000 tonnes
191204	Shredded or granulated rubber and end-of-life tyres only	Use in equestrian exercise surfaces	1,000 tonnes
191201	Shredded paper and cardboard	Use as animal bedding	100 tonnes
030305, 030310, 030311	Paper fibre, de-inked paper pulp and de-inked paper sludge from paper manufacturing only	Use as animal bedding	100 tonnes
030105, 191207	Untreated wood (including shavings, woodchip and sawdust) and over-sized compost only	Use as animal bedding	100 tonnes
160103	End-of-life tyres	Use as a weight on cover sheeting on agricultural premises or use as crash barriers	40 tonnes
150102	Geotextile bags (flexible intermediate bulk containers) only	Use as reinforcement in construction	100 bags
020202	Shellfish shells from which the soft tissue or flesh has been removed only	Use for ornamental purposes	50 tonnes

Codes	*Waste types*	*Specified purpose*	*Quantity limit (at any one time)*
191205	Crushed glass only	Use for ornamental purposes	50 tonnes
200127*, 200128, 080111*, 080112	Paints (excluding specialist and industrial paints, wood preservatives, aerosol and spray paints, inks, adhesives and resins)	Use as paint	1,000 litres
190599	Compost produced for the purposes of growing mushrooms only	Use in growing mushrooms	1,000 tonnes
170102, 170904	Stones and bricks capable of being used in their existing state only	Use in construction of buildings, fencing, barriers, containment or similar above ground construction	100 tonnes
170201, 191207, 200138	Non-hazardous wood including telegraph poles and railway sleepers and lock gates and associated balance beams	Use in construction of buildings, fencing, barriers, containment or similar above ground construction	100 tonnes
110105*, 110107*	Ferric chloride and aluminium hydroxide only	Use in treating municipal waste water effluent	50 cubic metres
110105*, 110107*	Ferric chloride and aluminium hydroxide only	Use in potable water treatment processes	50 cubic metres
190902, 190903, 190906	Sludges/solutions from the treatment of water only	Use in treating municipal waste water effluent	50 cubic metres
100201, 100202, 170504, 191209	Blast furnace slag and stones only	Use as filter media at waste water treatment works	50,000 tonnes
170204*, 191206*, 200137*	Hazardous wooden telegraph poles and railway sleepers and lock gates and associated balance beams only	Use in construction of buildings, fencing, barriers, containment or similar above ground construction	100 tonnes

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total amount of waste used or stored at any one time does not exceed the quantity limit specified in the fourth column,

(b) in relation to any relevant waste to which code 160103 applies (end-of-life tyres), within the quantity limit specified for that waste type, not more than 10 tonnes is stored together,

(c) the waste is not treated or required to be treated prior to use,

(d) in relation to any relevant waste to which code 110105* (ferric chloride), 110107* (aluminium hydroxide), 190902, 190903, 190906 (sludges/solutions from the treatment of water) applies, the waste is stored—

(i) with secondary containment, and

(ii) in a location with sealed drainage, and

(e) in relation to any relevant waste to which code 110105* (ferric chloride), 110107* (aluminium hydroxide) applies, within the quantity limit specified for that waste type, not more than 10 tonnes of waste may be used per day.

Commencement

Sch. 3(1)(2)(2) para. 8(1)-(3)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 8(1)-(3)(e): England, Wales

Law In Force

9.— Use of waste to manufacture finished goods (U9)

(1) The use of relevant waste to manufacture finished goods.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3)(a) is set out below.

Codes	*Waste types*	*Quantity limit (at any one time)*	*Additional specific conditions*
100101, 100102	Ash only	500 tonnes	A
101208	Ceramics	100 tonnes	A
101112, 150107, 191205, 200102	Glass	5,000 tonnes	A
100105	Gypsum only	500 tonnes	A
200199	Lion faeces only	5 tonnes	B
120101, 120103, 150104, 160117, 160118, 191001, 191002, 191202, 191203, 200140	Metals	500 tonnes	A
150101, 191201, 200101	Paper and cardboard	15,000 tonnes	C, D
070213, 120105, 150102, 191204, 200139	Plastics	500 tonnes	E
191204	Rubber only	30 tonnes	E, F
040221, 040222, 150109, 191208, 200110, 200111	Textiles	1,000 tonnes	B
030105, 030301, 150103, 191207, 200138	Wood, bark, cork, sawdust, shavings, cuttings, particle board	100 tonnes	B

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste used or stored at any one time does not exceed the quantity limit specified in the third column of the table in sub-paragraph (2),

(b) the waste is stored in a secure location at the place where the manufacturing is carried on,

(c) the operation does not involve any activity falling within a description in Part A(1) or Part A(2) of Part 2 of Schedule 1, and
(d) the operation complies with such of the following additional specific conditions as are specified in the fourth column of the table—

A	the waste is stored at a location with sealed drainage;
B	the waste is stored indoors or in a secure container;
C	the waste is stored in a baled form, in a container or indoors;
D	within the quantity limit specified in the third column of the table and notwithstanding additional specific condition C, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter;
E	the waste is not subject to heat treatment;
F	the total quantity of waste stored together does not exceed 10 tonnes.

(4) For the purposes of this paragraph, "finished goods" means goods that are ready for use by an end consumer without any further processing.

Commencement

Sch. 3(1)(2)(2) para. 9(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 9(1)-(4): England, Wales

Law In Force

10.— Spreading waste on agricultural land to confer benefit (U10)

(1) The spreading of relevant waste on agricultural land to confer benefit to the land for the purposes of providing, maintaining or improving the soil's ability to provide a growing medium by adding nutrients, lime or biomass.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity and storage limits referred to in sub-paragraph (3) is set out below.

Codes	*Waste types*	*Quantity limit*	*Storage limit (at any one time)*	*Period*	*Additional specific conditions*
010102, 010408, 170504	Chalk only	50 tonnes per hectare	200 tonnes	12 months	A
020101	Sludges from washing and cleaning fruit and vegetables on farm only	50 tonnes per hectare	200 tonnes	12 months	A, F
020199, 020399	Untreated wash waters from cleaning fruit and vegetables on farm only	100 tonnes per hectare	200 tonnes	12 months	A, F

Codes	*Waste types*	*Quantity limit*	*Storage limit (at any one time)*	*Period*	*Additional specific conditions*
020305	Effluent from the on-site treatment of wash waters from cleaning fruit and vegetables on farm only	100 tonnes per hectare	200 tonnes	12 months	A, F
020401, 020399	Soil from cleaning and washing fruit and vegetables only	50 tonnes per hectare	200 tonnes	12 months	A
020199	Milk from agricultural premises only	50 cubic metres of diluted milk per hectare	200 tonnes	24 hours	A, B, E
100101	Ash from wood chip boilers produced pursuant to an operation described in paragraph U4 only	1 tonne per hectare	10 tonnes	12 months	A
170506	Dredging spoil (other than those mentioned in 170505) generated from the creation or maintenance of habitats, ditches or ponds within parks, gardens, fields and forests only	150 tonnes per hectare	1,250 tonnes	12 months	C
020199	Spent compost from the growing of mushrooms only	50 tonnes per hectare	500 tonnes	12 months	A
190599	Compost produced pursuant to a treatment described in paragraph T23 or T26 only	50 tonnes per hectare	500 tonnes	12 months	A
190604	Digestate produced pursuant to a treatment described in paragraph T24 or T25 only	50 tonnes per hectare	200 tonnes	12 months	A
190812	Waste consisting of biobed or biofilter material produced pursuant to a treatment described in paragraph T32 only	50 tonnes per hectare	200 tonnes	12 months	A, D

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste spread does not exceed the limit specified in the third column of the table in sub-paragraph (2) over the period specified in the fifth column,

(b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table,

(c) subject to additional specific conditions D and E in paragraph (f), where they apply, no waste is stored for longer than 12 months prior to spreading,

(d) the waste is stored in a secure location prior to spreading,
(e) at the time the spreading begins—
(i) the land has not been frozen for 12 or more hours in the preceding 24 hours,
(ii) the land is not waterlogged, frozen or snow-covered, and
(f) the operation complies with such of the following additional specific conditions as are specified in the sixth column of the table—

A	the location of any waste which is stored or land which is spread is at least 10 metres from a watercourse and 50 metres from a spring, well or bore-hole;
B	prior to spreading, the waste is diluted with not less than an equal quantity of water or slurry and the land is spread not more than once in any 4-week period;
C	the waste is spread adjacent to the place from which it was dredged;
D	the waste is stored for at least 12 months prior to spreading;
E	the waste is not stored for longer than 24 hours prior to spreading;
F	the waste is spread at the place where it is produced.

Commencement

Sch. 3(1)(2)(2) para. 10(1)-(3)(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 10(1)-(3)(f): England, Wales

Law In Force

11.— Spreading waste on non-agricultural land to confer benefit (U11)

(1) The spreading of relevant waste on land that is not agricultural land for the purposes of providing, maintaining or improving the soil's ability to provide a growing medium by adding nutrients, lime or bio-mass.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity and storage limits referred to in sub-paragraph (3) is set out below.

Codes	*Waste types*	*Quantity limit (over 12 months)*	*Storage limit (at any one time)*	*Additional specific conditions*
010102, 010408, 170504	Chalk only	50 tonnes per hectare	200 tonnes	A
020202	Shellfish shells from which the soft tissue or flesh has been removed only	50 tonnes per hectare	200 tonnes	A
020399, 020401	Soil from cleaning and washing fruit and vegetables only	50 tonnes per hectare	200 tonnes	A
100101	Ash from wood chip boilers produced pursuant	1 tonne per hectare	10 tonnes	A

Codes	*Waste types*	*Quantity limit (over 12 months)*	*Storage limit (at any one time)*	*Additional specific conditions*
	to an operation de-scribed in paragraph U4 only			
170506	Dredging spoil (other than those mentioned in 170505) generated from the creation or maintenance of habitats, ditches or ponds within parks, gardens, fields and forests only	150 tonnes per hectare	1,250 tonnes	B
020199	Spent compost from the growing of mushrooms only	50 tonnes per hectare	500 tonnes	A
190599	Compost produced pursuant to a treatment de-scribed in paragraph T23 or T26 only	50 tonnes per hectare	500 tonnes	A
190604	Digestate produced pursuant to a treatment described in paragraph T24 or T25 only	50 tonnes per hectare	200 tonnes	A
190812	Waste consisting of biobed or biofilter material produced pursuant to a treatment described in paragraph T32 only	50 tonnes per hectare	200 tonnes	A, C
200108	Coffee grounds only	50 tonnes per hectare	200 tonnes	A

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste spread does not exceed the limit specified in the third column of the table in sub-paragraph (2) over any 12-month period,

(b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table,

(c) subject to additional specific condition C in paragraph (f), where it applies, no waste is stored for longer than 12 months prior to spreading,

(d) the waste is stored in a secure location prior to spreading,

(e) at the time the spreading begins—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours;

(ii) the land is not waterlogged, frozen or snow-covered, and

(f) the operation complies with such of the following additional specific conditions as are specified in the fifth column of the table—

A	the location of any waste which is stored or land which is spread is at least 10 metres from a watercourse and 50 metres from a spring, well or borehole;
B	the waste is spread adjacent to the place from which it was dredged;
C	the waste is stored for at least 12 months prior to spreading.

Commencement

Sch. 3(1)(2)(2) para. 11(1)-(3)(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 11(1)-(3)(f): England, Wales

Law In Force

12.— Use of mulch (U12)

(1) The use of relevant waste as a mulch.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
020103, 191207, 200201	Untreated wood and plant matter

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste used or stored over any period of 1 month does not exceed 100 tonnes, and

(b) the waste is stored in a secure location prior to use.

Commencement

Sch. 3(1)(2)(2) para. 12(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 12(1)-(3)(b): England, Wales

Law In Force

13.— Spreading of plant matter to confer benefit (U13)

(1) The spreading of relevant waste at the place of production to confer benefit.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
020103, 020107, 020304, 200201	Plant tissue only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste spread over any 12-month period does not exceed 50 tonnes per hectare,

(b) at the time the spreading begins—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours;

(ii) the land is not waterlogged, frozen or snow-covered, and

(c) except for waste which is spread on the banks of the waters from which it was produced, no waste is spread within 50 metres of any watercourse, spring, well or borehole.

Commencement

Sch. 3(1)(2)(2) para. 13(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 13(1)-(3)(c): England, Wales

Law In Force

14.— Incorporation of ash into soil (U14)

(1) The incorporation of ash which is relevant waste into soil resulting from a qualifying operation.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
020103, 020107, 200201	Ash from burning of plant tissue only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste incorporated into soil does not exceed 10 tonnes per hectare, and

(b) ashes of burnt cereal, straw or cereal stubble are not allowed, without reasonable excuse, proof of which lies on the establishment or undertaking carrying on the operation, to remain on the soil for longer than 24 hours after the commencement of the burning but must be incorporated into the soil—

(i) within that period, or

(ii) in a case where, having regard to wind conditions to do so would be likely to cause nuisance, as soon as conditions allow.

(4) For the purposes of this paragraph, a "qualifying operation" is one that—

(a) involves the burning of cereal straw or cereal stubble,

(b) falls within a description in paragraph D7, and

(c) complies with the specific conditions specified in that paragraph and the general conditions specified in Chapter 3.

Commencement

Sch. 3(1)(2)(2) para. 14(1)-(4)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 14(1)-(4)(c): England, Wales

Law In Force

15.— Pig and poultry ash (U15)

(1) The spreading of relevant waste on agricultural land at the place of production.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
190112	Ash from the incineration of pig and poultry carcasses only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste spread over any 12-month period does not exceed 150kg per hectare,

(b) the waste is mixed with an equal volume or more of manure or slurry prior to spreading,

(c) the waste is stored in a secure place prior to spreading,

(d) the location of the waste which is stored or land which is spread is at least—

(i) 10 metres from a watercourse;

(ii) 50 metres from a spring, well or borehole, and

(e) at the time of the spreading—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours;

(ii) the land is not waterlogged, frozen or snow-covered.

Commencement

Sch. 3(1)(2)(2) para. 15(1)-(3)(e)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 15(1)-(3)(e)(ii): England, Wales

Law In Force

16.— Use of depolluted end-of-life vehicles for vehicle parts (U16)

(1) The use of relevant waste for vehicle parts.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste Types*
160106	End-of-life vehicles, containing neither liquids nor other hazardous components
160122	Non-hazardous components from end-of-life vehicles only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) no more than two depolluted end-of-life vehicles are stored at any one time,

(b) in relation to relevant waste to which code 160122 (non-hazardous components from end-of-life vehicles) applies, the total quantity of waste stored at any one time does not exceed 5 cubic metres,

(c) the waste is stored in a secure place,

(d) the waste is stored on an impermeable surface, and

(e) the operation is for the purposes of re-using the waste.

(4) In this paragraph—

"depolluted" means that the vehicle has been subjected to all of the operations described in paragraph 3 of Annex 1 to the End-of-Life Vehicles Directive;

["end-of-life vehicle" means a motor vehicle which is waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive. **]** [1]

Notes

[1] Definition substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(9)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 3(1)(2)(2) para. 16(1)-(4) definition of "end of life vehicle": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(2)(2) para. 16(1)-(4) definition of "end of life vehicle": England, Wales

CHAPTER 3

SECTION 1 Introductory

Law In Force

1.—

(1) The descriptions in this Chapter—

(a) are set out in the **[** first sub-paragraph of paragraphs T1 to T33 **]** [1], and

(b) include associated storage.

(2) The specific conditions for each description in this Chapter are set out in the **[** third sub-paragraph of paragraphs T1 to T33 **]** [2].

(3) The general condition for the descriptions in this Chapter is that the operation is for the purposes of recovering the waste, unless otherwise stated in the specific conditions.

Notes

[1] Word substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(4)(b)(i)(aa) (October 1, 2020)

[2] Word substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(4)(b)(i)(bb) (October 1, 2020)

Commencement

Sch. 3(1)(3)(1) para. 1(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(1) para. 1(1)-(3): England, Wales

SECTION 2 Descriptions and specific conditions

Law In Force

1.— Cleaning, washing, spraying or coating relevant waste (T1)

(1) The treatment of relevant waste by cleaning, washing, spraying or coating it, subject to sub-paragraph (4).

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	***Waste types***
150105	Composite packaging
160120, 150107, 170202, 191205, 200102	Glass
150101	Paper and cardboard packaging
020104, 070213, 150102, 160119, 170203, 200139	Plastic
150109	Textile packaging

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated over any 7-day period does not exceed 300 tonnes,

(b) subject to paragraph (e), the total quantity of waste stored at any one time does not exceed 300 tonnes,

(c) the waste is stored and treated in a location with sealed drainage,

(d) no waste is stored for longer than 3 months prior to treatment,

(e) where the waste consists of containers that have been used to contain a hazardous substance, the total quantity of waste stored does not exceed 1 tonne over any 7-day period, and

(f) the waste is not contaminated by more than 1% of its original volume prior to treatment.

(4) The description in sub-paragraph (1) does not include cleaning, washing, spraying or coating of any relevant waste if this falls within Part B of Section 6.4 of Part 2 of Schedule 1.

(5) In this paragraph, "hazardous substance" means a substance classified as hazardous as a consequence of fulfilling the criteria laid down in Parts 2 to 5 of Annex I to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures[1].

(6) References in this paragraph to quantity limits by weight include the weight of any contamination.

Notes

[1] OJ No L 353, 31.12.2008, p 1, as last amended by Commission Regulation (EU) No 1297/2014 (OJ No L 350, 6.12.2014, p 1).

Commencement

Sch. 3(1)(3)(2) para. 1(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 1(1)-(6): England, Wales

Law In Force

2.— Recovery of textiles (T2)

(1) The treatment of relevant waste by laundering or otherwise cleaning it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
191208	Textiles
200110	Clothes
200111	Textiles

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed 20,000 tonnes, and

(b) the waste is treated and stored at a location with sealed drainage.

Commencement

Sch. 3(1)(3)(2) para. 2(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 2(1)-(3)(b): England, Wales

Law In Force

3.— Treatment of waste metals and metal alloys by heating for the purposes of removing grease etc. (T3)

(1) The treatment of relevant waste for the purposes of removing grease, oil or any other non-metallic contaminant by heating it in an appliance where the requirements of sub-paragraph (4) are met using a process that is not an excluded process.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
160117	Ferrous metal
160118	Non-ferrous metal
191001	Iron and steel waste
191002	Non-ferrous waste
191202	Ferrous metal
191203	Non-ferrous metal

Codes	*Waste types*
200140	Metals

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste stored or treated at any one time does not exceed 10 tonnes, and

(b) the waste is stored in a secure location with sealed drainage.

(4) The requirements in this sub-paragraph are that—

(a) the appliance has a net rated thermal input of less than 0.2 megawatts, and

(b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.2 megawatts.

(5) The processes that are excluded processes for the purposes of sub-paragraph (1) are—

(a) the removal by heat of plastic or rubber covering from scrap cable or any asbestos contaminant,

(b) a process that is an activity listed in Section 2.1 (other than paragraph (d) of Part B) of Part 2 of Schedule 1 involving the heating of iron, steel or ferrous alloy, and

(c) a process that is an activity described in Part A(1) or A(2) of Section 2.2 of Chapter 2 of Part 2 of Schedule 1 involving the heating of any non-ferrous metal or non-ferrous metal alloy.

Commencement

Sch. 3(1)(3)(2) para. 3(1)-(5)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 3(1)-(5)(c): England, Wales

Law In Force

4.— Preparatory treatments (baling, sorting, shredding etc.) (T4)

(1) The treatment of relevant waste by baling, sorting, shredding, pulverising, densifying, crushing or compacting it.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3) is set out below.

Codes	*Waste types*	*Treatment limit (over 7 days)*	*Storage limit (at any one time)*
150104, 200140	Cans and foils only	100 tonnes where treatment is carried on outdoors 500 tonnes where treatment is carried on indoors	500 tonnes
070213, 150102, 150105	Food and drink cartons only	100 tonnes where treatment is carried on outdoors 3,000 tonnes where treatment is carried on indoors	500 tonnes

Codes	*Waste types*	*Treatment limit (over 7 days)*	*Storage limit (at any one time)*
150107, 160120, 170202, 191205, 200102	Glass	5,000 tonnes	5,000 tonnes
030308, 030307, 150101, 191201, 200101	Paper and cardboard (excluding food and drink cartons)	500 tonnes where treatment is carried on outdoors 3,000 tonnes where treatment is carried on indoors	15,000 tonnes
020104, 070213, 120105, 150102, 160119, 170203, 191204, 200139	Plastic	100 tonnes where treatment is carried on outdoors 3000 tonnes where treatment is carried on indoors	500 tonnes
040222, 150109, 191208, 200110, 200111	Textiles and clothes	1,000 tonnes where treatment is carried on outdoors 3,000 tonnes where treatment is carried on indoors	1,000 tonnes

(3) For the purposes of this paragraph, the specific conditions are that—

(a) subject to paragraph (d), the total quantity of waste treated over any 7-day period does not exceed the limit specified in the third column of the table in sub-paragraph (2),

(b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table,

(c) no waste is stored for longer than 12 months,

(d) where the treatment involves pulverising waste—

(i) the total quantity of waste treated over any 7-day period does not exceed 5 tonnes;

(ii) the treatment is carried on indoors,

(e) where the treatment involves densifying waste, the treatment does not involve the application of heat,

(f) the treatment and storage are carried on in a secure place,

(g) the waste arrives at the place where the operation is carried on unmixed with any other type of waste,

(h) the waste is treated and stored in an unmixed state, and

(i) in relation to relevant waste to which any one of codes 030308, 030307, 150101, 191201, 200101 (paper and cardboard) applies—

(i) the waste is stored in a baled form, in a container or indoors;

(ii) within the storage limit specified in the fourth column of the table, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter.

Commencement

Sch. 3(1)(3)(2) para. 4(1)-(3)(i)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 4(1)-(3)(i)(ii): England, Wales

Law In Force

5.— Screening and blending of waste (T5)

(1) The treatment of relevant waste by screening and blending it for the purposes of producing an aggregate or soil and associated prior treatment.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	***Waste types***
010408	Waste gravel and crushed rocks other than those mentioned in 010407
010409	Waste sand and clays
020202	Shellfish shells from which the soft tissue or flesh has been removed only
030101	Untreated waste bark and cork only
030301	Untreated waste bark and wood
100101	Bottom ash, slag and boiler dust (excluding boiler dust mentioned in 100104)
100115	Bottom ash, slag and boiler dust from co-incineration other than those mentioned in 100114
170101	Concrete
170102	Bricks
170103	Tiles and ceramics
170107	Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 170106
170201	Untreated wood only
170302	Bituminous mixtures other than those mentioned in 170301
170504	Soil and stones other than those mentioned in 170503
170506	Dredging spoil other than those mentioned in 170505
170508	Track ballast other than those mentioned in 170507
190599	Compost produced pursuant to a treatment described in paragraphs T23 or T26 only
191205	Glass
191209	Aggregates only
191212	Gypsum recovered from construction materials only
191302	Solid wastes from soil remediation other than those mentioned in 191301
191304	Sludges from soil remediation other than those mentioned in 191303
200202	Soil and stones

(3) For the purposes of this paragraph, the specific conditions are that—

(a) in relation to any relevant waste to which code 170302 (bituminous mixtures other than those mentioned in 170301) applies where the treatment is for the purpose of manufacturing roadstone, the total quantity of waste treated or stored over any 3-year period does not exceed 50,000 tonnes,

(b) in relation to relevant waste not covered by paragraph (a), the total quantity of waste treated or stored over any 3-year period does not exceed 5,000 tonnes,
(c) no waste is stored for longer than 12 months, and
(d) the treatment is carried on at the place—
(i) of production, or
(ii) where the treated waste is to be used.

(4) In this paragraph, "associated prior treatment" means crushing relevant waste for the purposes of screening or blending it but does not include crushing of any relevant waste which falls within Part B of Section 3.5 of Part 2 of Schedule 1 or within paragraph T7.

Commencement

Sch. 3(1)(3)(2) para. 5(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 5(1)-(4): England, Wales

Law In Force

6.— Treatment of waste wood and waste plant matter by chipping, shredding, cutting or pulverising (T6)

(1) The treatment of relevant waste by chipping, shredding, cutting or pulverising it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020103, 200201	Plant tissue waste
030101,030301, 170201	Wood
150103	Wooden packaging only

(3) For the purposes of this paragraph, the specific conditions are that—
(a) the total quantity of waste treated or stored over any 7-day period does not exceed 500 tonnes, and
(b) no waste is stored for longer than 3 months after treatment.

Commencement

Sch. 3(1)(3)(2) para. 6(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 6(1)-(3)(b): England, Wales

Law In Force

7.— Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size (T7)

(1) The treatment of relevant waste by crushing, grinding or reducing it in size but not including any treatment activity covered by paragraph (c) in Part B of Section 3.5 of Part 2 of Schedule 1.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
170101	Concrete
170102	Bricks
170103	Tiles and ceramics
170107	Mixtures of concrete, bricks, tiles and ceramics (other than those mentioned in 170106*)

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated over any period of 1 hour does not exceed 20 tonnes,

(b) the total quantity of waste stored at any one time does not exceed 200 tonnes,

(c) the waste is stored in a secure place prior to treatment,

(d) the treatment is carried on—

(i) at the place of production, or

(ii) at the place where the treated waste is to be used, and

(e) the operation does not result in the release into the air of a substance listed in paragraph 6(3) of Part 1 of Schedule 1 except in a quantity which is so trivial that it is incapable of causing pollution or its capacity to cause pollution is insignificant.

Commencement

Sch. 3(1)(3)(2) para. 7(1)-(3)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 7(1)-(3)(e): England, Wales

Law In Force

8.— Mechanical treatment of end-of-life tyres (T8)

(1) The treatment of end-of-life tyres, including such tyres in a shredded or granulated form that are relevant waste by a relevant treatment operation and associated prior treatment.

(2) The table specifying relevant waste and relevant treatment operations for the purposes of this paragraph is set out below.

Codes	*Waste types*	*Relevant treatment operation*
160103	End-of-life tyres	Granulating, baling, peeling, shaving, shredding and re-treading of tyres
191204	Shredded or granulated end-of-life tyres only	Granulating

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste stored or treated over any 7-day period does not exceed—

(i) 60 tonnes of truck tyres, or

(ii) 40 tonnes of any other tyres,

(b) within the limits in paragraph (a), the total quantity stored together does not exceed 10 tonnes,

(c) in relation to any relevant treatment operation that is granulating, the treatment is carried on indoors, and

(d) in relation to any relevant treatment operation that is re-treading, the treatment is for the purposes of re-using the waste.

(4) In this paragraph, "associated prior treatment" means cleaning tyres and separating rims from them prior to treatment.

Commencement

Sch. 3(1)(3)(2) para. 8(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 8(1)-(4): England, Wales

Law In Force

9.— Recovery of scrap metal (T9)

(1) The recovery of scrap metal consisting of relevant waste by—

(a) sorting, grading, shearing by manual feed, baling or crushing it, or

(b) cutting it with hand-held equipment.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	***Waste types***
020110	Waste metal
150104	Metallic packaging
160117, 191202	Ferrous metal
160118, 191203	Non-ferrous metal
170401	Copper, bronze, brass
170402	Aluminium
170403	Lead
170404	Zinc
170405	Iron and steel
170406	Tin
170407	Mixed metals
170411	Cables other than those mentioned in 170410
200140	Metals

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed 1,000 tonnes,
(b) within the limit in paragraph (a), the total quantity of any cables stored or treated does not exceed 50 tonnes,
(c) no waste is stored for longer than 24 months,
(d) the recovery is carried on at a location with sealed drainage, and
(e) the height of any pile or stack of waste does not exceed 5 metres.

Commencement

Sch. 3(1)(3)(2) para. 9(1)-(3)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 9(1)-(3)(e): England, Wales

Law In Force

10.— Sorting mixed waste (T10)

(1) The sorting of one type of relevant waste from one or more other types of relevant waste.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
150101, 200101	Paper and cardboard
150102, 200139	Plastics
150104, 200140	Metals
150105	Composite packaging
150106	Mixed packaging
150107, 200102	Glass
150109, 200110, 200111	Textiles and clothing only

(3) For the purposes of this paragraph, the specific conditions are that—
(a) the total quantity of waste stored at any one time does not exceed 10 tonnes,
(b) the total quantity of waste treated over any 7-day period does not exceed 10 tonnes, and
(c) the waste is stored in a secure place.

Commencement

Sch. 3(1)(3)(2) para. 10(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 10(1)-(3)(c): England, Wales

Law In Force

11.— Repair or refurbishment of WEEE (T11)

(1) The treatment of WEEE that is relevant waste by repairing, refurbishing or dismantling it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
160211*	WEEE containing CFCs, HCFCs and HFCs
160213*	WEEE containing hazardous components other than those mentioned in 160209 to 160212
160214	WEEE other than those mentioned in 160209 to 160213
160216	Components removed from discarded equipment other than those mentioned in 160215
200123*	WEEE containing CFCs
200135*	WEEE other than those mentioned in 200121 and 200123 containing hazardous components
200136	WEEE other than those mentioned in 200121, 200123, and 200135

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored over any 12-month period does not exceed 1,000 tonnes,

(b) best available treatment, recovery and recycling techniques are used,

(c) the waste is stored in accordance with paragraph 1 of Annex VIII to the WEEE Directive,

(d) the waste is treated in accordance with paragraph 2 of Annex VIII to the WEEE Directive,

(e) the minimum recovery targets set out in Annex V to the WEEE Directive are met,

(f) the operation meets the technical requirements specified in Annex VIII to the WEEE Directive,

(g) in relation to any relevant waste falling within codes 160211* (WEEE containing CFCs, HCFCs and HFCs) or 200123* (WEEE containing CFCs), the waste is stored in such a manner so as to prevent the release of CFCs, HCFCs and HFCs,

(h) the waste is stored in such a manner that its environmentally sound re-use or recycling is not hindered,

(i) the operation is for the purposes of—

(i) re-using the WEEE for its original purpose,

(ii) re-using any dismantled components for their original purpose, or

(iii) dismantling the WEEE components for the purposes of recovery, and

(j) in relation to dismantling, any fluids are removed and further treatment carried out in accordance with Annex VII to the WEEE Directive.

(4) In this paragraph—

"best available treatment, recovery and recycling techniques" has the meaning given in the document published jointly by the Department for Environment, Food and Rural Affairs, the Welsh Assembly Government and the Scottish Executive on 27th November 2006, entitled "Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE)"[1] ;

"CFCs" means chlorofluorocarbons;

"HCFCs" means hydrochlorofluorocarbons;
"HFCs" means hydrofluorocarbons;
"treatment" does not include the degassing or capture of ozone depleting substances.

Notes

[1] See http://archive.defra.gov.uk/environment/waste/producer/electrical/documents/weee-batrrt-guidance.pdf. A copy may be obtained from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY.

Commencement

Sch. 3(1)(3)(2) para. 11(1)-(4) definition of "treatment": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 11(1)-(4) definition of "treatment": England, Wales

Law In Force

12.— Manual treatment of waste (T12)

(1) The manual treatment of relevant waste by a relevant treatment operation.

(2) The table below specifies—

(a) relevant waste for the purposes of this paragraph and relevant treatment operations,
(b) the quantity limits referred to in sub-paragraph (3)(a), and
(c) the additional specific conditions referred to in sub-paragraph (3)(c).

Codes	*Waste types*	*Relevant treatment operation*	*Quantity limits (at any one time)*	*Additional specific conditions*
200199	Bicycles only	Sorting, repairing or refurbishing	100 tonnes	A
200110, 200111	Clothing, fabrics, carpets only	Sorting, repairing or refurbishing	100 tonnes	A
200138, 200139, 200140	Coat hangers only	Sorting and dismantling	100 tonnes	B
200140	Domestic pots and pans only	Sorting and dismantling	100 tonnes	
200199	Footwear only	Sorting, repairing or refurbishing	100 tonnes	A
200307	Furniture only	Sorting, repairing or refurbishing	100 tonnes	A
200138, 200139, 200140	Garden tools only	Sorting, repairing or refurbishing	100 tonnes	A
200138, 200139, 200140	Lock gates only	Sorting and dismantling	100 tonnes	
200307	Mattresses only	Sorting and dismantling	5 tonnes	B, C
170102, 170201, 170904, 200138	Stone, bricks, wood only	Sorting, repairing or refurbishing	500 tonnes	A
200137*, 200138, 200140	Telegraph poles only	Sorting and dismantling	100 tonnes	B

Codes	*Waste types*	*Relevant treatment operation*	*Quantity limits (at any one time)*	*Additional specific conditions*
170201, 170202, 170203, 200102, 200138, 200139, 200140	Windows, doors only	Sorting, repairing or refurbishing	100 tonnes	A
170201, 170202, 170203, 200102, 200138, 200139, 200140	Windows, doors only	Sorting and dismantling	10 tonnes	B
150103	Wooden pallets only	Sorting, repairing or refurbishing	100 tonnes	A
150103	Wooden pallets only	Sorting and dismantling	100 tonnes	B

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed the limit specified in the fourth column of the table in sub-paragraph (2),

(b) subject to additional specific condition B in paragraph (c), where it applies, no waste is stored for longer than 2 years, and

(c) the operation complies with such of the following additional specific conditions as is specified in the fifth column of the table—

A	the operation is for the purposes of reusing the waste;
B	no waste is stored for longer than 12 months;
C	treatment and storage are carried on indoors.

Commencement

Sch. 3(1)(3)(2) para. 12(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 12(1)-(3)(c): England, Wales

Law In Force

13.— Treatment of waste food (T13)

(1) The treatment of waste food that is relevant waste by decanting or unwrapping it, bulking it up and sorting it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020304, 020501, 020601, 020704	Materials unsuitable for consumption or processing
200199	Non liquid foods unsuitable for consumption or processing only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed 30 tonnes,

(b) the treatment and storage are carried on—

(i) indoors;

(ii) in a secure place,

(c) no waste is stored for longer than 7 days,
(d) in relation to relevant waste specified in the first row of the table in sub-paragraph (2), where that is milk only, the operation is carried on in a dairy which has sealed drainage, and
(e) any resultant waste packaging is bulked up for the purposes of recovery.

Commencement

Sch. 3(1)(3)(2) para. 13(1)-(3)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 13(1)-(3)(e): England, Wales

Law In Force

14.— Crushing and emptying waste vehicle oil filters (T14)

(1) The treatment of waste vehicle oil filters consisting of relevant waste by crushing and emptying them.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
160107*	Oil filters

(3) For the purposes of this paragraph, the specific conditions are that—
(a) the total quantity of waste stored after treatment does not exceed 1 tonne of crushed and emptied oil filters at any one time,
(b) the treatment is carried on at the place of production,
(c) the equipment used to treat the waste is—
(i) designed for the purposes of crushing oil filters;
(ii) designed and maintained to ensure that oil does not escape during treatment, and
(d) the treatment takes place as soon as practicable after the oil filter is removed from a vehicle.

Commencement

Sch. 3(1)(3)(2) para. 14(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 14(1)-(3)(d): England, Wales

Law In Force

15.— Treatment of waste aerosol cans (T15)

(1) The treatment of empty used waste aerosol cans consisting of relevant waste by puncturing and crushing them.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
160504*	Aerosol cans containing residues of or contaminated by hazardous substances only
160505	Aerosol cans only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored in any 12-month period does not exceed 3,000 cans,

(b) the waste is stored in a secure location in vented containers prior to treatment,

(c) the treatment and storage are carried on—

(i) at the place of production;

(ii) in a well-ventilated area, and

(d) the equipment used to treat the waste is designed for that purpose.

Commencement

Sch. 3(1)(3)(2) para. 15(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 15(1)-(3)(d): England, Wales

Law In Force

16.— Treatment of waste toner cartridges and waste ink cartridges by sorting, dismantling, cleaning or refilling (T16)

(1) The treatment of waste toner cartridges and waste ink cartridges consisting of relevant waste by sorting, dismantling, cleaning or refilling them.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
080313	Waste ink other than that mentioned in 080312*
080318	Waste printing toner other than those mentioned in 080317
150102	Plastic packaging
160216	Cartridges taken from discarded equipment other than those mentioned in 160215 only
200139	Plastics

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed 150 tonnes, and

(b) the treatment is carried on—

(i) indoors;

(ii) at a location with sealed drainage.

Commencement

Sch. 3(1)(3)(2) para. 16(1)-(3)(b)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 16(1)-(3)(b)(ii): England, Wales

Law In Force

17.— Crushing waste fluorescent tubes (T17)

(1) The crushing of relevant waste for the purposes of volume reduction prior to collection.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
200121*	Fluorescent tubes only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the fluorescent tubes were used or intended to be used by the producer of the waste before becoming waste,

(b) the crushing is carried out by the producer of the waste at the place of production,

(c) the total quantity of waste crushed does not exceed 2 tonnes per year,

(d) the equipment used for crushing is owned by the producer,

(e) the mercury exposure limit is not exceeded,

(f) best available treatment, recovery and recycling techniques are used,

(g) the waste is stored in accordance with paragraph 1 of Annex VIII to the WEEE Directive, and

(h) the waste is crushed in accordance with paragraph 2 of Annex VIII to the WEEE Directive.

(4) In this paragraph—

"best available treatment, recovery and recycling techniques" has the meaning given in paragraph 11(4) of this Section;

"mercury exposure limit" means the workplace exposure limit for mercury set out in the document entitled "EH/40/2005 Workplace Exposure Limits" (second edition) issued by the Health and Safety Executive and published in 2011[1].

Notes

[1] See http://www.hse.gov.uk/pubns/priced/eh40.pdf. A copy may be obtained by writing to Health and Safety Executive Books at PO Box 1999, Sudbury, Suffolk CO10 2WA or via https://books.hse.gov.uk/hse/public/home.jsf.

Commencement

Sch. 3(1)(3)(2) para. 17(1)-(4) definition of "mercury exposure limit": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 17(1)-(4) definition of "mercury exposure limit": England, Wales

Law In Force

18.— Dewatering using flocculants (T18)

(1) The treatment of relevant waste by dewatering using flocculants.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
010409	Clay effluent resulting from the manufacture of ceramics only
080120	Water based paint wash waters only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste stored or treated at any one time does not exceed 30,000 litres, and

(b) the waste is stored in a container with secondary containment.

Commencement

Sch. 3(1)(3)(2) para. 18(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 18(1)-(3)(b): England, Wales

Law In Force

19.— Physical and chemical treatment of waste edible oil and fat to produce biodiesel (T19)

(1) The physical and chemical treatment of relevant waste for the purposes of producing biodiesel.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
200125	Edible oil and fat

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste physically treated or stored at any one time does not exceed 5,000 litres,

(b) the total quantity of waste chemically treated at any one time does not exceed 250 litres,

(c) the waste is treated and stored in a container with secondary containment,

(d) no waste is stored for longer than 3 months, and

(e) the operation is for the purpose of reusing the waste.

Commencement

Sch. 3(1)(3)(2) para. 19(1)-(3)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 19(1)-(3)(e): England, Wales

Law In Force

20.— Treatment of waste at a water treatment works (T20)

(1) The treatment of relevant waste at a water treatment works.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
190902	Sludges from water clarification
190903	Sludges from decarbonation
190906	Solutions and sludges from regeneration of ion exchangers
190999	Waste water and bore hole flushings only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated at the works over any period of 12 months does not exceed 10,000 cubic metres, and

(b) the waste is treated and stored in a secure location with sealed drainage.

Commencement

Sch. 3(1)(3)(2) para. 20(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 20(1)-(3)(b): England, Wales

Law In Force

21.— Recovery of waste at a waste water treatment works (T21)

(1) The recovery of relevant waste at a waste water treatment works.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
190801	Screenings
190802	Sewage grit (waste from desanding) only
190805	Sludges from treatment of urban waste water
190899	Centrate liquor only

Codes	*Waste types*
190902	Sludges from water clarification
190903	Sludges from decarbonation
190906	Solutions and sludges from regeneration of ion exchangers
200304	Septic tank sludge
200306	Waste from sewage cleaning
200399	Cesspool waste and other sewage sludge only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste brought to the works over any period of 12 months does not exceed 100,000 cubic metres, and

(b) the waste is treated and stored in a secure location with sealed drainage.

Commencement

Sch. 3(1)(3)(2) para. 21(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 21(1)-(3)(b): England, Wales

Repealed

22.— […][1]

Notes

[1] Revoked by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(4)(b)(ii)(aa) (October 1, 2020)

Law In Force

23.— Aerobic composting and associated prior treatment (T23)

(1) The treatment of relevant waste by aerobic composting and associated prior treatment.

(2) The tables specifying relevant waste for the purposes of this paragraph are set out below.

Table 1

Codes	*Waste types*
170506	Plant tissue waste from inland waters only
020103, 200201	Plant tissue waste
020106	Horse manure and farmyard manure only
020107	Biodegradable waste from forestry only
020199	Fully biodegradable animal bedding
200101	Paper and cardboard
200201	Biodegradable waste plant matter only

Table 2

Codes	*Waste types*
020202	Animal tissue waste
020501, 020601	Materials unsuitable for consumption or processing
200108	Biodegradable kitchen and canteen waste
200302	Biodegradable waste from markets only

(3) For the purposes of this paragraph, the specific conditions are—

(a) the total quantity of waste treated or stored at any one time does not exceed 80 tonnes where—

(i) the operation is carried on at the place of production, and

(ii) the treated waste is being or is to be used at that place,

(b) the total quantity of waste treated or stored at any one time does not exceed 60 tonnes where—

(i) the waste is produced at a place other than where the operation is carried on, or

(ii) the treated waste is not to be used at the place where the operation is carried on,

(c) within the quantity limits in paragraphs (a) and (b), the waste does not consist at any one time of more than the following quantities—

(i) 10 tonnes of paper or cardboard;

(ii) 20 tonnes of manure;

(iii) 10 tonnes of any relevant waste listed in Table 2,

(d) in relation to relevant waste listed in Table 1, no waste is stored for longer than 1 month prior to treatment,

(e) in relation to relevant waste listed in Table 2, no waste is stored for longer than 7 days prior to treatment,

(f) no waste is stored for a period of longer than 12 months after treatment, and

(g) the treatment results in a stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land.

(4) In this paragraph—

"aerobic composting" means the autothermic and thermophilic biological decomposition and stabilisation of biodegradable waste under controlled conditions that are aerobic;

"associated prior treatment" means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of aerobic composting.

Commencement

Sch. 3(1)(3)(2) para. 23(1)-(4) definition of "associated prior treatment": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 23(1)-(4) definition of "associated prior treatment": England, Wales

Law In Force

24.— Anaerobic digestion at premises used for agriculture and burning of resultant biogas (T24)

(1) The treatment by anaerobic digestion of relevant waste at premises used for agriculture and associated prior treatment and the burning of any resultant biogas.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020103, 020107, 170506, 200201	Plant tissue waste
020106	Horse and farmyard manure, slurry only
020199	Fully biodegradable animal bedding

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed 1,250 cubic metres,

(b) the minimum retention time for the waste in the digester is 28 days, and

(c) any gas resulting from the operation is collected and then burnt in an appliance—

(i) where the requirements of sub-paragraph (5) are met, and

(ii) the appliance is for the purposes of producing energy.

(4) In this paragraph, "associated prior treatment" means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of anaerobic digestion.

(5) The requirements in this sub-paragraph are that—

(a) the appliance has a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

Commencement

Sch. 3(1)(3)(2) para. 24(1)-(5)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 24(1)-(5)(b): England, Wales

Law In Force

25.— Anaerobic digestion at premises not used for agriculture and burning of resultant biogas (T25)

(1) The treatment by anaerobic digestion of relevant waste at premises not used for agriculture and associated prior treatment and the burning of any resultant biogas.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020103, 020107, 170506, 200201	Plant tissue waste

Codes	*Waste types*
020106	Horse and farmyard manure only
020199	Fully biodegradable animal bedding
200101	Paper and cardboard
200108	Biodegradable kitchen and canteen waste
020202	Animal tissue waste
020501, 020601	Materials unsuitable for consumption or processing
200302	Biodegradable waste from markets only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed 50 cubic metres,

(b) the minimum retention time for the waste in the digester is 28 days, and

(c) any gas resulting from the operation is collected and then burnt in an appliance—

(i) where the requirements of sub-paragraph (5) are met, and

(ii) the appliance is for the purposes of producing energy.

(4) In this paragraph, "associated prior treatment" means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of anaerobic digestion.

(5) The requirements in this sub-paragraph are that—

(a) the appliance has a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

Commencement

Sch. 3(1)(3)(2) para. 25(1)-(5)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 25(1)-(5)(b): England, Wales

Law In Force

26.— Treatment of kitchen waste in a wormery (T26)

(1) The treatment in a wormery of relevant waste originating from a kitchen.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
200101	Paper and cardboard
200108	Biodegradable kitchen and canteen waste

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated over any 12-month period does not exceed 6 tonnes, and

(b) the treatment results in a stable sanitised vermicompost that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land.

Commencement

Sch. 3(1)(3)(2) para. 26(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 26(1)-(3)(b): England, Wales

Law In Force

27.— Treatment of sheep dip using organophosphate-degrading enzyme (T27)

(1) The treatment of used organophosphate sheep dip consisting of relevant waste for the purposes of its disposal.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020109	Organophosphate sheep dip only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) total quantity of waste treated or stored over any 24-hour period does not exceed 8,000 litres,

(b) the waste is treated using organophosphate-degrading enzyme in accordance with the enzyme manufacturer's instructions,

(c) the treatment and storage are carried on at the place of production, and

(d) the treatment is carried on in a secure container located within a drain pen or in a secure sheep dip bath.

(4) In this paragraph, "drain pen" means an impermeable area draining back to the sheep dip bath where newly-dipped sheep are held while they continue to drip.

Commencement

Sch. 3(1)(3)(2) para. 27(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 27(1)-(4): England, Wales

Law In Force

28.— Sorting and de-naturing of controlled drugs for disposal (T28)

(1) The treatment of controlled drugs consisting of relevant waste by sorting and de-naturing them prior to their disposal.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
180109	Medicines from natal care, diagnosis, treatment or prevention of disease in humans
180208	Medicines from research, diagnosis, treatment or prevention of disease involving animals
200132	Medicines separately collected as municipal waste

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed 1 cubic metre,

(b) the treatment and storage are carried on at the place of production, and

(c) no waste is stored for longer than 6 months.

(4) In this paragraph, "controlled drug" means a controlled drug specified in Schedules 1 to 5 to the Misuse of Drugs Regulations 2001[1].

Notes

[1] Relevant amending instruments are S.I. 2003/1432, 2005/1653, 2864, 3372, 2007/2154, 2009/3136, 2010/1144, 1799, 2011/448, 2012/973, 1311, 2013/176, 625, 2014/1275, 1377, 3277, 2015/231 and 891.

Commencement

Sch. 3(1)(3)(2) para. 28(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 28(1)-(4): England, Wales

Law In Force

29.— Treatment of non-hazardous pesticide washings by carbon filtration for disposal (T29)

(1) The treatment of non-hazardous pesticide washings that are relevant waste by carbon filtration for the purposes of disposal.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020109, 160509	Non-hazardous pesticide washings only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored over any 24-hour period does not exceed 8,000 litres,

(b) the treatment and storage are carried on at the place of production, and

(c) the treatment is carried on in a location with sealed drainage.

Commencement

Sch. 3(1)(3)(2) para. 29(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 29(1)-(3)(c): England, Wales

Law In Force

30.— Recovery of silver (T30)

(1) The recovery of silver from relevant waste produced in connection with printing or photographic processes.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
090106*	Wastes containing silver from on-site treatment of photographic wastes
090107	Photographic film or paper containing silver or silver compounds

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste stored or treated at any one time does not exceed 1,000 litres, and

(b) the treatment and storage are carried on in a location with sealed drainage.

Commencement

Sch. 3(1)(3)(2) para. 30(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 30(1)-(3)(b): England, Wales

Law In Force

31.— Recovery of monopropylene glycol from aircraft antifreeze fluids (T31)

(1) The recovery of monopropylene glycol by filtering and distilling relevant waste collected following de-icing of aircraft.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
160115	Antifreeze fluids other than those mentioned in 160114

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored over any 7-day period does not exceed 250 cubic metres,
(b) the waste is treated in a location with sealed drainage,
(c) the operation is carried on at the place where the waste is produced, and
(d) the waste is stored with secondary containment.

Commencement

Sch. 3(1)(3)(2) para. 31(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 31(1)-(3)(d): England, Wales

Law In Force

32.— Treatment of waste in a biobed or biofilter (T32)

(1) The treatment of relevant waste in a lined biobed or above ground biofilter.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020109, 160509	Non-hazardous pesticide washings only

(3) For the purposes of this paragraph, the specific conditions are that—
(a) the total quantity of waste treated or stored over any 12-month period does not exceed 15,000 litres,
(b) the biobed or biofilter is located at a secure place that is—
(i) at least 10 metres from a watercourse;
(ii) at least 50 metres from a spring or well or from any borehole not used to supply water for domestic or food production purposes;
(iii) at least 250 metres from any borehole used to supply water for domestic or food production purposes;
(iv) not within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction that is used to supply water for domestic or food production purposes,
(c) the biobed or biofilter—
(i) is designed and maintained for the treatment operation;
(ii) has an impermeable lining, and
(d) the treatment is carried on at the place of production.

Commencement

Sch. 3(1)(3)(2) para. 32(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(3)(2) para. 32(1)-(3)(d): England, Wales

Law In Force

[33.— Recovery of central heating oil by filtration (T33)

(1) The recovery of central heating oil by filtering relevant waste.

(2) The table specifying relevant waste for the purpose of this paragraph is set out below.

Codes	*Waste types*
130701*	Central heating oil only

(3) For the purpose of this paragraph, the specific conditions are that—

(a) the total quantity of the waste treated over any 7 day period does not exceed 400 litres,

(b) the waste is stored with secondary containment,

(c) the treatment is carried on at a location with sealed drainage, and

(d) the operation is for the purpose of reusing the waste.

] [1]

Notes

[1] Added by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(4)(b)(ii)(bb) (October 1, 2020)

Extent

Sch. 3(1)(3)(2) para. 33(1)-(3)(d): England, Wales

CHAPTER 4

SECTION 1 Introductory

Law In Force

1.—

(1) The descriptions in this Chapter—

(a) are set out in the first sub-paragraph of paragraphs D1 to D8, and

(b) include associated storage.

(2) The specific conditions for each description in this Chapter are set out in the third sub-paragraph of paragraphs D1 to D8.

(3) The general condition for all descriptions in this Chapter is that the operation is carried on at the place of production.

Commencement

Sch. 3(1)(4)(1) para. 1(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(1) para. 1(1)-(3): England, Wales

SECTION 2 Descriptions and specific conditions

Law In Force

1.— Deposit of waste from dredging of inland waters (D1)

(1) The deposit of relevant waste arising from the dredging of inland waters and associated screening and dewatering.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	***Waste types***
170506	Dredging spoil other than those mentioned in 170505

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste deposited or treated over any 12-month period does not exceed 50 cubic metres for each metre of land on which the waste is deposited, and

(b) the waste is deposited at the closest possible point to where the waste was produced on—

(i) the bank of the inland waters from which the waste was produced, or

(ii) such width of land adjoining the inland waters so as to enable the waste to be removed and deposited by mechanical means in one operation.

Commencement

Sch. 3(1)(4)(2) para. 1(1)-(3)(b)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(2) para. 1(1)-(3)(b)(ii): England, Wales

Law In Force

2.— Deposit of waste from a railway sanitary convenience (D2)

(1) The deposit of relevant waste on to a railway track.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
200399	Wastes from railway sanitary conveniences only

(3) For the purposes of this paragraph, the specific condition is that the total quantity of waste deposited per discharge does not exceed 25 litres.

(4) In this paragraph, "railway sanitary convenience" means a sanitary convenience or sink forming part of a vehicle used for the carriage of passengers on a railway.

Commencement

Sch. 3(1)(4)(2) para. 2(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(2) para. 2(1)-(4): England, Wales

Law In Force

3.— Deposit of waste from a portable sanitary convenience (D3)

(1) The deposit of relevant waste by burying it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
200399	Waste from portable sanitary conveniences only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste deposited over any 12-month period does not exceed 1 cubic metre, and

(b) no waste is deposited within—

(i) 10 metres of any watercourse,

(ii) 50 metres of any spring, well or borehole.

Commencement

Sch. 3(1)(4)(2) para. 3(1)-(3)(b)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(2) para. 3(1)-(3)(b)(ii): England, Wales

Law In Force

4.— Deposit of agricultural waste consisting of plant tissue under a Plant Health notice (D4)

(1) The deposit of agricultural waste that is relevant waste.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020103	Plant tissue waste

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the deposit is required under a Plant Health notice,

(b) where waste is deposited into a pile, the pile—

(i) does not exceed 250 tonnes, and

(ii) is not immediately adjacent to another pile of the same type of waste,

(c) at the time the deposit is made—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours;

(ii) the land is not waterlogged, frozen or snow-covered, and

(d) no waste is deposited within—

(i) 10 metres of any watercourse;

(ii) 50 metres of any spring, well or borehole.

Commencement

Sch. 3(1)(4)(2) para. 4(1)-(3)(d)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(2) para. 4(1)-(3)(d)(ii): England, Wales

Law In Force

5.— Depositing samples of waste for the purposes of testing or analysing them (D5)

(1) The deposit and subsequent storage of relevant samples of waste at any place where the samples are being or are to be tested or analysed.

(2) For the purposes of sub-paragraph (1), "relevant samples of waste" means samples of waste that are taken—

(a) in the exercise of any power under—

(i) the Control of Pollution Act 1974;

(ii) section 5 of the Control of Pollution (Amendment) Act 1989[1];

(iii) the 1990 Act;

(iv) the 1991 Act;

(v) the Water Industry Act 1991;

(vi) the Waste Electrical and Electronic Equipment Regulations 2013[2];

(vii) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007[3];

(viii) regulation 88 of the Waste Batteries and Accumulators Regulations 2009[4],

(b) by or on behalf of the holder of an environmental permit,

(c) by or on behalf of a person carrying on in relation to the waste—

(i) an operation described in this Part, or

(ii) an excluded waste operation,

(d) by or on behalf of the owner or occupier of the land from which the samples are taken,

(e) by or on behalf of any person to whom section 34(1) or (1A) of the 1990 Act[5] applies in connection with that person's duties under that section,

(f) by or on behalf of any person to whom the Transfrontier Shipment of Waste Regulations 2007[6] apply in connection with that person's powers under those Regulations, or

(g) for the purposes of research.

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste deposited or stored at any one time does not exceed 10 tonnes, and

(b) the waste is not stored for longer than 12 months or such other period as may be ordered in court proceedings.

Notes

1 Section 5 was substituted, together with section 5A, by section 37 of the Clean Neighbourhoods and Environment Act 2005 (c. 16).

2 Amended by S.I. 2014/1771, 2015/1968 and 2016/738.

3 Amended by S.I. 2007/3538, 2008/1941, 2010/675, 1159, 1820 (W. 177), 2849, 2011/988, 1043, 2012/3082, 2013/755 (W. 90), 1821, 1857, 2014/2890, 2016/241, 696, and 738.

4 To which there are amendments not relevant to these Regulations.

5 Section 34(1) was amended by S.I. 2000/1973, 2007/3528, 2010/675 and 2011/988. Section 34(1A) was inserted by S.I. 2009/1799 and amended by S.I. 2010/675.

6 Amended by S.I. 2007/3538, 2008/9, 2010/265, 675, 1159, 2011/988, 1043 and 2014/861.

Commencement

Sch. 3(1)(4)(2) para. 5(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(2) para. 5(1)-(3)(b): England, Wales

Law In Force

6.— Disposal by incineration (D6)

(1) The disposal by incineration of the waste described in sub-paragraph (2) in a small waste incineration plant where the requirements in sub-paragraph (4) are met.

(2) The waste described in this paragraph is the waste mentioned in Article 42(2)(a)(i) and (iii) of the Industrial Emissions Directive.

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste stored prior to incineration does not exceed 5 tonnes at any one time, and

(b) the operation is carried on by the person who produced the waste.

(4) The requirements in this sub-paragraph are—

(a) the small waste incineration plant has a capacity of less than 50kg per hour and a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other small waste incineration plants (whether or not it is operated simultaneously with such other small waste incineration plants), the aggregate net rated thermal input of all the small waste incineration plants is less than 0.4 megawatts.

Commencement

Sch. 3(1)(4)(2) para. 6(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(2) para. 6(1)-(4)(b): England, Wales

Law In Force

7.— Burning waste in the open (D7)

(1) The burning of relevant waste on open land.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020103, 020107, 200201	Plant tissue
030105	Sawdust, shavings and cuttings from untreated wood only
030301	Waste bark and wood

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste burned over any period of 24 hours does not exceed 10 tonnes,

(b) the total quantity of waste stored at any one time does not exceed 20 tonnes, and

(c) no waste is stored for longer than 6 months.

Commencement

Sch. 3(1)(4)(2) para. 7(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(2) para. 7(1)-(3)(c): England, Wales

Law In Force

8.— Burning waste at a port under a Plant Health notice (D8)

(1) The burning of relevant waste at a port.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
020103, 020107, 020304, 200201	Plant tissue only
150103, 200138	Wood used to wedge or support parts of cargo, including packing material, spacers and pallets only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste burned or stored over any period of 24 hours does not exceed 10 tonnes,

(b) the burning and storage of waste takes place in a secure place at the port where the waste was unloaded, and

(c) the burning is required under a Plant Health notice.

(4) In this paragraph, "port" means a port appointed by order made under section 19 of the Customs and Excise Management Act 1979.

Commencement

Sch. 3(1)(4)(2) para. 8(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(4)(2) para. 8(1)-(4): England, Wales

CHAPTER 5

SECTION 1 Introductory

Law In Force

1.—

(1) The descriptions in this Chapter are set out in the first sub-paragraph of paragraphs S1 to S3.

(2) The specific conditions for each of the descriptions in this Chapter are set out in the third sub-paragraph of paragraphs S1 to S3.

(3) The general conditions for all descriptions in this Chapter are that the storage is carried on—

(a) at a place other than the place of production, and

(b) pending the recovery of the waste.

Commencement

Sch. 3(1)(5)(1) para. 1(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(5)(1) para. 1(1)-(3)(b): England, Wales

SECTION 2 Storage of waste

Law In Force

1.— Storage of waste in secure containers (S1)

(1) The storage of relevant waste at a place in a secure container or containers for the purposes of its recovery elsewhere.

(2) The table specifying relevant waste for the purposes of this paragraph and the storage limits referred to in sub-paragraph (3) is set out below.

Codes	*Waste types*	*Storage limit (at any one time)*
130109* to 130113* 130204* to 130208* 130401* to 130403* 130701*	Waste oils	3 cubic metres
150101, 200101	Cartons	400 cubic metres
150102, 200139	Plastics and plastic packaging	400 cubic metres
150104, 200140	Cans and foil only	400 cubic metres
150101, 200101	Paper and cardboard	400 cubic metres
150107, 200102	Glass	400 cubic metres
150109, 200110, 200111	Textiles and clothes	400 cubic metres
150202*	Absorbents, filter materials (including oil filters not otherwise specified) wiping cloths, protective clothing contaminated by hazardous substances	3 cubic metres
150203	Absorbents, filter materials, wiping cloths and protective clothing other than those mentioned in 150202	3 cubic metres
160107*	Oil filters	3 cubic metres

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste stored at any one time does not exceed the limit specified in the third column in the table in sub-paragraph (2),

(b) the total quantity of storage containers at the storage place at any one time does not exceed 20,

(c) no waste is stored for longer than 12 months,

(d) the person storing the waste is the owner of the container or containers or has the consent of the owner,

(e) in respect of any waste oils and waste to which code 160107* (oil filters) applies, the waste is stored with secondary containment, and

(f) each waste type is stored separately.

Commencement

Sch. 3(1)(5)(2) para. 1(1)-(3)(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(5)(2) para. 1(1)-(3)(f): England, Wales

Law In Force

2.— Storage of waste in a secure place (S2)

(1) The storage of relevant waste in a secure place for the purposes of its recovery elsewhere.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3) is set out below.

Codes	*Waste types*	*Storage limit (at any one time)*	*Period*	*Additional specific conditions*
161002	Aqueous paint related waste only	1,000 litres	6 months	A, C
160601*, 160602*, 160603*, 160604, 160605, 200133*, 200134	Batteries	10 tonnes	6 months	A, B
150104, 200140	Cans and foil only	500 tonnes	12 months	
140601*	CFCs, HCFCs and HFCs	18 tonnes	6 months	A, C
170101, 170102, 170103, 170107, 170202, 170203, 170401 to 170407, 170504, 170604, 170802	Construction and demolition waste capable of being used in its existing state (non-hazardous) only	100 tonnes	12 months	
200125	Edible oil and fat only	5,000 tonnes	12 months	A, C
100207*	Electric arc furnace dust only	2,500 tonnes	3 months	D, E, F
020104	Farm plastics (non-packaging) only	500 tonnes	12 months	D
070213, 150101, 150102, 150105, 200139	Food and drink cartons only	500 tonnes	12 months	
101112, 150107, 160120, 170202, 191205, 200102	Glass	5,000 tonnes	12 months	B
020102	Mammalian protein only	60,000 tonnes	12 months	D
020202	Mammalian tallow only	45,000 tonnes	12 months	D
200307	Mattresses only	5 tonnes	3 months	D
010408, 191209	Marble chips only	5,000 tonnes	12 months	
020304	Olive pulp/pellet only	5,000 tonnes	3 months	B, C, E
200127*, 200128, 080111*, 080112	Paints (excluding specialist and industrial paints, wood preservatives, aerosol and spray paints, inks, adhesives and resins) pending re-use as paints only	10,000 litres	6 months	A, C
150101, 191201, 200101, 030308, 030307	Paper and cardboard (excluding food and drink cartons) only	15,000 tonnes	12 months	J, K
090107, 090108	Photographic films and papers	50 tonnes	12 months	J
070213, 120105, 150102, 160119, 191204, 200139	Plastic	500 tonnes	12 months	
100101	Poultry litter ash only	3,000 tonnes	12 months	D, E

Codes	*Waste types*	*Storage limit (at any one time)*	*Period*	*Additional specific conditions*
080318, 150102, 160216, 200139	Printer cartridges only	5,000 units	6 months	D
170301*, 170302, 170504	Road planings, waste road chippings, road sub-base only	500 tonnes	12 months	
020110, 160117, 160118, 191203, 170401, 170402, 170403, 170404, 170405, 170406, 170407, 191202, 170411	Scrap metal	15,000 tonnes	6 months	B, E
090110, 090111*, 090112	Single use cameras	400 cubic metres	6 months	
020401, 020399	Soils from cleaning fruit and vegetables only	100 tonnes	6 months	
100316, 100405*, 100504, 100511, 100604, 100811, 100899	Solder metal, skimmings, ashes and residues	100 tonnes	3 months	G
140602*, 140603*, 200113*	Solvents and solvent mixtures	5 cubic metres	6 months	A, C
100101, 100102, 100105, 100115	Synthetic gypsum and pulverised fuel ash only	2,500 tonnes	3 months	D, E, F
040222, 150109, 191208, 200110, 200111	Textiles and clothes	1,000 tonnes	12 months	
160103, 191204	Tyres, tyre chip and crumb	40 tonnes	3 months	H
110113*, 120301*, 160708*	Waste cleaning solution containing 2% sodium metasilicate and 1-2% waste oil only	3 tonnes	3 months	A, C
160211*,160213*, 160214, 160216, 200121*, 200123*, 200135*, 200136	WEEE	400 cubic metres	6 months	I
030301, 150102, 150103, 200138	Wine bottle corks only	500 tonnes	12 months	
030105, 170201, 170204*,191206*, 191207, 200137*, 200138	Wood including telegraph poles and railway sleepers (hazardous and non-hazardous)	100 tonnes	12 months	030105, 170201, 170204*, 191206*, 191207, 200137*, 200138

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste stored at any one time does not exceed the limit specified in the third column of the table in sub-paragraph (2),

(b) no waste is stored for longer than the period specified in the fourth column of the table,

(c) each type of waste is stored separately, and

(d) the operation complies with such of the following additional conditions as are specified in the fifth column of the table—

A	the waste is stored in a container;
B	the storage place has sealed drainage;
C	the waste is stored with secondary containment;

D	the waste is stored indoors;
E	the waste is stored at a dock prior to being exported or after being imported;
F	the waste must arrive at the storage place in bags and must be stored there in bags or in drums;
G	the waste is stored in bags or in drums;
H	the total quantity of waste stored together does not exceed 10 tonnes;
I	the waste is stored in accordance with the requirements in paragraph 1 of Annex VIII to the WEEE Directive;
J	the waste is stored in a baled form, in a container or indoors;
K	within the quantity limit specified in the third column of the table and notwithstanding additional specific condition J, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter.

Commencement

Sch. 3(1)(5)(2) para. 2(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(5)(2) para. 2(1)-(3)(d): England, Wales

Law In Force

3.— Storage of sludge (S3)

(1) The storage of relevant waste.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

Codes	*Waste types*
190805	Residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters only
200304	Residual sludge from septic tanks and other similar installations for the treatment of sewage only

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste stored at any one time does not exceed 1,250 tonnes,

(b) no waste is stored for longer than 12 months,

(c) the waste is stored in a secure location at the place where it is to be used,

(d) the waste is stored at least—

(i) 10 metres from any watercourse;

(ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes;

(iii) 250 metres from any borehole used to supply water for domestic or food production purposes,

(e) no waste is stored—

(i) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction that is used to supply water for domestic or food production purposes;

(ii) within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon, and

(f) after storage, the waste is to be used in accordance with the Sludge (Use in Agriculture) Regulations 1989[1] .

Notes

[1] Amended by S.I. 1990/880, 1996/593, 973, 2000/656, 2010/1159, 1820 (W. 177) and 2013/755 (W. 90).

Commencement

Sch. 3(1)(5)(2) para. 3(1)-(3)(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(1)(5)(2) para. 3(1)-(3)(f): England, Wales

PART 2

Exempt water discharge activities: descriptions and conditions

Law In Force

1.— Vegetation management activities

(1) For the purpose of paragraphs 5(a)(i) and 6(a)(i) of Schedule 2, the description is cutting or uprooting a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them, where it is not reasonable to take steps to remove the vegetation from those waters.

(2) For the purpose of paragraphs 5(a)(ii) and 6(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are that—

(a) prior notice of the dates of the water discharge activity is given to persons likely to be affected by such an activity, including—

(i) the owner of any structure within or on the watercourse,

(ii) the owner of any designated site within or on the watercourse,

(iii) fisheries interests,

(iv) boating interests,

(v) the appropriate agency,

(vi) the local authority,

(vii) the internal drainage board (which has the same meaning as in the Land Drainage Act 1991), and

(b) the activity is not carried on if there is insufficient flow to convey the vegetation.

(3) In subparagraph (2)(a)(ii), "designated site" means—

(a) a European site (which has the meaning given in [regulation 8 of the Conservation of Habitats and Species Regulations 2017] [1] [2]),

(b) a Ramsar site (which has the same meaning as in section 37A of the Wildlife and Countryside Act 1981[3]),

(c) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981[4]), or

(d) a nature reserve established by a local authority under section 21 of the National Parks and Access to the Countryside Act 1949[5].

Notes

1 Words substituted by Conservation of Habitats and Species Regulations 2017/1012 Sch.6(2) para.73(2)(a) (November 30, 2017)

2 Amended by S.I. 2012/1927; there are other amending instruments but none is relevant.

3 Section 37A was inserted by section 77 of the Countryside and Rights of Way Act 2000 (c. 37) and was amended by paragraph 86 of Part 1 of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c. 16), by paragraphs 5 and 7 of Schedule 2 to the Planning (Wales) Act 2015 (anaw. 4) and by S.I. 2013/755 (W. 90).

4 The definition was inserted by paragraph 5(2) of Schedule 9 to the Countryside and Rights of Way Act 2000.

5 Section 21 was amended by Schedule 30 to the Local Government Act 1972 (c. 70), by paragraphs 15(e) and 19 of Part 1 of Schedule 11 to the Natural Environment and Rural Communities Act 2006, and by paragraph 1 of Part 1 of Schedule 2 to the Environment (Wales) Act 2016 (anaw. 3).

Commencement

Sch. 3(2) para. 1(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(2) para. 1(1)-(3)(d): England, Wales

Law In Force

2.— Small discharges of sewage effluent: Wales

(1) For the purpose of paragraph 5(a)(i) of Schedule 2, the description is the discharge from a sewage treatment plant of 5 cubic metres per day or less of sewage effluent into inland freshwaters, coastal waters or relevant territorial waters.

(2) For the purpose of paragraph 5(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are—

(a) in the case of a discharge which takes place for the first time on or after the date on which these Regulations come into force, that all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in the document entitled "Guidance for the registration of small sewage effluent discharges", issued by the NRBW and dated July 2011 and updated in September 2016[1], in relation to—

(i) design and manufacturing standards,

(ii) construction, installation and operation specifications,
(iii) siting and installation, and
(iv) the capacity of the works and equipment;
(b) that the discharge cannot reasonably, at the time it is first made, be made to the foul sewer;
(c) that the discharge does not contain trade effluent;
(d) that all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;
(e) that records of maintenance work are kept by the person who is the occupier of the land on which the discharge is made ("the occupier") for at least 5 years after the work is carried out;
(f) that the occupier must notify the exemption registration authority if an exempt water discharge activity ceases to be in operation;
(g) that the occupier must ensure that all works and equipment used for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering inland freshwaters or coastal waters;
(h) that, before an occupier ceases to be in occupation of land on which an exempt water discharge activity is carried on, the occupier must give to the person who will next be in occupation of the land a written notice—
(i) stating that an exempt water discharge activity is being carried on on the land,
(ii) containing a description of the exempt facility,
(iii) stating the conditions that must be satisfied in relation to the exempt facility, and
(iv) accompanied by any records of maintenance mentioned in paragraph (e).

Notes

[1] See https://naturalresources.wales/media/679226/guidance-for-the-registration-of-small-sewage-effluent-discharges.pdf and https://naturalresources.wales/media/679225/canllawiau-ar-gyfer-cofrestru-gollyngiadau-elifion-carthion-bach.pdf. A copy may be obtained from Natural Resources Wales, c/o Customer Care Centre, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

Commencement

Sch. 3(2) para. 2(1)-(2)(h)(iv): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(2) para. 2(1)-(2)(h)(iv): England, Wales

Law In Force

3.— Small discharges of sewage effluent: England

(1) For the purpose of paragraph 6(a)(i) of Schedule 2, the description is the discharge from a sewage treatment plant of 5 cubic metres per day or less of sewage effluent into inland freshwaters, coastal waters or relevant territorial waters.

(2) For the purpose of paragraph 6(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are that an operator of the sewage treatment plant ensures that—

(a) all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in the **[** document entitled "General binding rules for small sewage discharges (SSDs) with effect from 2nd October 2023" published by the Agency on 23rd March 2023[2] **]** [1] in relation to—

(i) design and manufacturing standards,

(ii) construction, installation and operation specifications,

(iii) siting and installation, and

(iv) the capacity of the works and equipment;

(b) in the case of a discharge which takes place for the first time on or after 1st January 2015, the discharge could not reasonably be made to the foul sewer;

(c) the discharge does not contain trade effluent;

(d) all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;

(e) all works and equipment used for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of polluting matter entering inland freshwaters or coastal waters;

(f) before the land or part of the land on which the sewage treatment plant is situated or being used is sold, an owner of the land or part of the land gives to the purchaser a written notice—

(i) stating that an exempt water discharge activity is being carried on on the land, and

(ii) containing a description of the exempt facility.

(3) For the purposes of this paragraph, an operator is a person who has control over the operation of the sewage treatment plant by reason of—

(a) being an owner of the land on which the sewage treatment plant is situated or being used, or

(b) having entered into a written agreement with the owner of the land on which the sewage treatment plant is situated or being used to be responsible for the maintenance of the sewage treatment plant.

Notes

1 Words substituted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.5(a) (October 2, 2023)

2 A copy of the General binding rules for small sewage discharges (SSDs) with effect from 2nd October 2023 and the General binding rules for small sewage discharges (SSDs) with effect from 2nd October 2023 may be seen at https://www.gov.uk/government/organisations/environment-agency or obtained by writing to the Environment Agency at enquiries@environment-agency.gov.uk or Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY, United Kingdom.

Commencement

Sch. 3(2) para. 3(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(2) para. 3(1)-(3)(b): England, Wales

PART 3

Exempt groundwater activities: descriptions and conditions

Law In Force

1. Interpretation of Part 3

In this Part—

["ancient woodland" means any area that has been wooded continuously since at least 1600 AD, including ancient semi-natural woodland and plantations on ancient woodland sites; **]** [1]

"groundwater tracer test" means a study of—

(a) the behaviour or movement of water, or

(b) a contaminant below ground,

which involves the addition to groundwater of a distinguishable material which has nearly identical properties to the contaminant or water being studied;

[…][2]

["protected site" means—

(a) a wetland designated as a European site (which has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2017[3]),

(b) a Ramsar site (which has the same meaning as in section 37A of the Wildlife and Countryside Act 1981[4]),

(c) a nature reserve established by a local authority under section 21 of the National Parks and Access to the Countryside Act 1949, or

(d) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981);

] [1]

"specified groundwater remediation scheme" means a remediation scheme which involves the addition of a substance or preparation to groundwater which enhances the rate of remediation of groundwater contaminants;

"water features" includes boreholes, wells, adits, springs, seepage and wetland areas, ponds, lakes and watercourses;

"water features survey" means a survey of all water features within 1 kilometre of the proposed activity that may be affected by it.

Notes

1 Definition inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.5(b)(i) (October 2, 2023)

2 Definition revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(9)(b)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 S.I. 2017/1012, amended by S.I. 2019/579; there are other amending instruments but none is relevant.

4 1981 c. 69. Section 37A was inserted by section 77 of the Countryside and Rights of Way Act 2000 (c. 37).

Commencement

Sch. 3(3) para. 1 definition of "groundwater tracer test"- definition of "water features survey": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(3) para. 1 definition of "ancient woodland"- definition of "water features survey": England, Wales

Law In Force

2.— Discharge of small quantities of substances for scientific purposes

(1) For the purpose of paragraphs 7(a)(i) and 8(a)(i) of Schedule 2, the description is the discharge of small quantities of substances for scientific purposes as part of—

(a) a specified groundwater remediation scheme, or

(b) a groundwater tracer test **[** ; **]** [1]

[limited to the amount strictly necessary for that purpose. **]** [1]

(2) For the purpose of paragraphs 7(a)(ii) and 8(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

(a) that a water features survey has demonstrated that the discharge will not cause pollution;

(b) that the prior consent of every person having a right to abstract water in the vicinity of the discharge has been obtained;

(c) that the exemption registration authority is notified before the commencement of the discharge;

(d) that in the case of discharges as part of a specified groundwater remediation scheme, monitoring of the discharge, to determine whether pollution has been caused, is undertaken.

Notes

[1] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(9)(b)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 3(3) para. 2(1)-(2)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(3) para. 2(1)-(2)(d): England, Wales

Law In Force

3.— Small discharges of sewage effluent: Wales

(1) For the purpose of paragraph 7(a)(i) of Schedule 2, the description is a discharge from a septic tank or sewage treatment plant of 2 cubic metres per day or less of sewage effluent that results in the input of pollutants to groundwater.

(2) For the purpose of paragraph 7(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

(a) in the case of a discharge which takes place for the first time on or after the date on which these Regulations come into force, that all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in the document entitled "Guidance for the registration of small sewage effluent discharges", issued by the NRBW and dated July 2011 and updated in September 2016, in relation to—

(i) design and manufacturing standards,

(ii) construction, installation and operation specifications,

(iii) siting and installation of infiltration systems, and

(iv) the capacity of the works and equipment;

(b) that the discharge cannot reasonably, at the time it is first made, be made to the foul sewer;

(c) that the discharge does not contain trade effluent;

(d) that the discharge does not result in an input of pollutants to groundwater—

(i) within 50 metres of a point at which water is abstracted from underground strata, or

(ii) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;

(e) that all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;

(f) that records of maintenance work are kept by the person who is the occupier of the land on which the discharge is made ("the occupier") for at least 5 years after the work is carried out;

(g) that the occupier must notify the exemption registration authority if an exempt groundwater activity ceases to be in operation;

(h) that the occupier must ensure that all works and equipment for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering groundwater;

(i) that before an occupier ceases to be in occupation of land on which an exempt groundwater activity is carried on, the occupier must give to the person who will next be in occupation of the land a written notice—

(i) stating that an exempt groundwater activity is being carried on on the land,

(ii) containing a description of the exempt facility,

(iii) stating the conditions that must be satisfied in relation to the exempt facility, and

(iv) accompanied by any records of maintenance mentioned in paragraph (f).

Commencement

Sch. 3(3) para. 3(1)-(2)(i)(iv): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(3) para. 3(1)-(2)(i)(iv): England, Wales

Law In Force

4.— Small discharges of sewage effluent: England

(1) For the purpose of paragraph 8(a)(i) of Schedule 2, the description is a discharge from a septic tank or sewage treatment plant of 2 cubic metres per day or less of sewage effluent that results in the input of pollutants to groundwater.

(2) For the purpose of paragraph 8(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are that an operator of the septic tank or sewage treatment plant ensures that—

(a) all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in the **[** document entitled "General binding rules for small sewage discharges (SSDs) with effect from 2nd October 2023" published by the Agency on 23rd March 2023 **]** [1] in relation to—

(i) design and manufacturing standards,

(ii) construction, installation and operation specifications,

(iii) siting and installation of infiltration systems, and

(iv) the capacity of the works and equipment;

(b) in the case of a discharge which takes place for the first time on or after 1st January 2015, the discharge could not reasonably be made to the foul sewer;

(c) the discharge does not contain trade effluent;

[(d) the discharge does not result in an input of pollutants to groundwater within a groundwater Source Protection Zone 1; **]** [2]

(e) all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;

(f) all works and equipment for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering groundwater;

(g) before the land or part of the land on which the septic tank or sewage treatment plant is situated or being used is sold, an owner of the land or part of the land gives to the purchaser a written notice—

(i) stating that an exempt groundwater activity is being carried on on the land, and

(ii) containing a description of the exempt facility.

(3) For the purposes of this paragraph, an operator is a person who has control over the operation of the septic tank or sewage treatment plant by reason of—

(a) being an owner of the land on which the septic tank or sewage treatment plant is situated or being used, or

(b) having entered into a written agreement with the owner of the land on which the septic tank or sewage treatment plant is situated or being used to be responsible for the maintenance of the septic tank or sewage treatment plant.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.5(b)(ii)(aa) (October 2, 2023)

[2] Substituted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.5(b)(ii)(bb) (October 2, 2023)

Commencement

Sch. 3(3) para. 4(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(3) para. 4(1)-(3)(b): England, Wales

Law In Force

5.— Open-loop ground source heating and cooling systems

(1) For the purpose of paragraphs 7(a)(i) and 8(a)(i) of Schedule 2, the description is the discharge of water to groundwater from a heating or cooling system to which sub-paragraph (3) applies with altered temperature.

(2) For the purpose of paragraphs 7(a)(ii) and 8(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

(a) that nothing must be added to water discharged from the system;

(b) that the temperature of water discharged from the system—

(i) subject to sub-paragraph (ii), must not exceed 25° C, and

(ii) must not vary by more than 10° C compared to that in the aquifer from which it was abstracted;

(c) that the system must not be on a known contaminated site or have had a previous contaminative use;

(d) that water from the system must not be discharged less than 50 metres from a watercourse or groundwater-fed wetland;

(e) [in relation to Wales,] [1] that water from the system must not be discharged—

(i) less than 50 metres from a point at which water is abstracted from underground strata, or

(ii) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;

[(ea) in relation to England, that water from the system must not be discharged within a groundwater Source Protection Zone 1;] [2]

(f) that the discharge of water from the system must be to the same aquifer as that from which it was abstracted;

(g) that water within the system must not be used for any other purpose.

(3) This sub-paragraph applies to a system—

(a) that involves—

(i) the abstraction of groundwater to obtain heating or (as the case may be) cooling, and

(ii) the subsequent discharge of that water, and

(b) that is—

(i) a cooled aquifer system with a volume of less than 1500 cubic metres per day,

(ii) a balanced system with a volume of less than 430 cubic metres per day, or

(iii) a heated aquifer system with a volume of less than 215 cubic metres per day.

(4) In this paragraph—

"balanced system" means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature is within the range 0.8 to 1.2;

"cooled aquifer system" means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature is less than 0.8;

"groundwater-fed wetland" means a terrestrial ecosystem directly depending on a body of groundwater (within the meaning of the Water Framework Directive) and includes—

(a) a European site (which has the meaning given in [regulation 8 of the Conservation of Habitats and Species Regulations 2017][3][4]);

(b) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981[5]);

"heated aquifer system" means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature exceeds 1.2.

Notes

1 Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.5(b)(iii)(aa) (October 2, 2023)

2 Added by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.5(b)(iii)(bb) (October 2, 2023)

3 Words substituted by Conservation of Habitats and Species Regulations 2017/1012 Sch.6(2) para.73(2)(b) (November 30, 2017)

4 Amended by S.I. 2012/1927; there are other amending instruments but none is relevant.

5 The definition was inserted by paragraph 5(2) of Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37).

Commencement

Sch. 3(3) para. 5(1)-(4) definition of "heated aquifer system": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(3) para. 5(1)-(4) definition of "heated aquifer system": England, Wales

Law In Force

[6.— Closed-loop ground source heating and cooling systems: England

(1) For the purpose of paragraph 8(a)(i) of Schedule 2, the description is a closed-loop ground source heating or cooling system—

(a) which is fully sealed and does not take water from, or discharge water or fluids into, the environment, and

(b) where any borehole is used, the borehole is fully sealed and does not take water from the environment.

(2) For the purpose of paragraph 8(a)(ii) of Schedule 2, the conditions in relation to a groundwater activity of that description are that an operator of the system ensures that—

(a) the system is a closed-loop system only and that there is no discharge of pollutants other than the transfer of heat to the environment,

(b) the system does not cause pollution of surface water or groundwater,

(c) no part of the system is within a groundwater Source Protection Zone 1,

(d) no part of the system is within 50m of a well, spring or borehole used to supply water for domestic or food production purposes,

(e) no part of the system is within the following distance of a protected site or an ancient woodland—

(i) 20m, where the system supplies only residential premises and the maximum output of the system is 45kW or less,

(ii) 50m, where the system supplies—

(aa) only a single community building,

(bb) only residential premises and the maximum output of the system is more than 45kW,

(cc) only a single building that is not a community building or residential premises and which has a floor space of less than 1000m^2, or

(dd) subject to sub-paragraph (i), more than one building where the total floor space within those buildings combined is less than 1000m^2, or

(iii) 250m in any other case,

(f) the installation of the system does not mobilise any contaminants present in the subsurface to the extent that the pollution of groundwater occurs,

(g) no part of the system is adjacent to a septic tank or cesspit, including the infiltration system,

(h) all equipment installed in relation to the system complies with the relevant design and manufacturing standards set down in—

(i) the relevant British Standards, and

(ii) the relevant Ground Source Heat Pump Association standards, and

(i) the system is appropriately decommissioned when it ceases to be in operation so that there is no risk of pollutants or polluting matter entering groundwater.

(3) In this regulation—

"community building" includes a building used as a place of worship;

"relevant British Standards" means—

(a) BS EN 378-1:2016+A1:2020 entitled "Refrigerating systems and heat pumps — Safety and environmental requirements, Part 1: Basic requirements, definitions, classification and selection criteria" published by the British Standards Institution on 30th November 2020,

(b) BS EN 378-2:2016 entitled "Refrigerating systems and heat pumps — Safety and environmental requirements, Part 2: Design, construction, testing, marking and documentation" published by the British Standards Institution on 31st December 2016,

(c) BS EN 378-3:2016+A1:2020 entitled "Refrigerating systems and heat pumps — Safety and environmental requirements, Part 3: Installation site and personal protection" published by the British Standards Institution on 30th November 2020,

(d) BS EN 378-4:2016+A1:2019 entitled "Refrigerating systems and heat pumps — Safety and environmental requirements, Part 4: Operation, maintenance, repair and recovery" published by the British Standards Institution on 31st October 2019,

(e) BS EN 805:2000 entitled "Water supply — Requirements for systems and components outside buildings" published by the British Standards Institution and coming into effect on 15th September 2000, and

(f) BS 5930:2015+A1:2020 entitled "Code of practice for ground investigations" published by the British Standards Institution on 31st May 2020;

"relevant Ground Source Heat Pump Association standards"[2] means—

(a) the Closed-loop Vertical Borehole Design, Installation and Materials Standards, issue 1.0, dated 2020 and published by the Ground Source Heat Pump Association,

(b) the Shallow Ground Source Standard, Version 2, dated January 2018 and published by the Ground Source Heat Pump Association, and

(c) the Thermal Pile Design, Installation and Materials Standards, Version 2, dated September 2018 and published by the Ground Source Heat Pump Association.

][1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.5(b)(iv) (October 2, 2023)

2 A copy of these standards may be obtained by writing to the Ground Source Heat Pump Association, 39 Dryburgh Road, London, SW15 1BN or at https://gshp.org.uk/resources/standards/.

Extent

Sch. 3(3) para. 6(1)-(3) definition of "relevant Ground Source Heat Pump Association standards" (c): England, Wales

Law In Force

[7.— Low-environmental-risk burials at new cemeteries or new extensions of cemeteries: England

(1) For the purpose of paragraph 8(a)(i) of Schedule 2, the description is any burial of human remains, other than a burial of human ashes from crematoria, within a new cemetery or new extension of a cemetery.

(2) In sub-paragraph (1), "new cemetery or new extension of a cemetery" means a development which, by virtue of section 57 of the Town and Country Planning Act 1990, required planning permission authorising a change of use of land to permit burials which was granted on or after 2nd October 2023.

(3) For the purpose of paragraph 8(a)(ii) of Schedule 2, the conditions in relation to a burial of that description are that the operator ensures that—

(a) any activity relating to the burial must not cause pollution of surface water or groundwater,

(b) the burial is not within 10m of any field drain, including any dry ditch,

(c) the grave has at least 1m clearance between the base of the grave and the top of the water table,

(d) the burial is not undertaken directly into groundwater,

(e) the grave is not dug in unaltered or unweathered bedrock,

(f) the grave is not dug in an area susceptible to groundwater flooding,

(g) the burial is not within 30m of any spring or watercourse,

(h) the burial is not in, or within 50m of, a protected site,
(i) the burial is not in an ancient woodland,
(j) the new cemetery or extension in question does not have more than 2500 burials per hectare, in proportion to the total area of the new cemetery or extension,
(k) no part of the new cemetery or extension in question is within a groundwater Source Protection Zone 1,
(l) no part of the new cemetery or extension in question is within 250m of any well, spring or borehole that is used to supply water for domestic drinking or food production purposes,
(m) the new cemetery or extension is located either—
(i) entirely on strata which are unproductive strata,
(ii) entirely on strata which are a secondary B aquifer or entirely on strata which are secondary undifferentiated rocks, where the number of burials is less than 100 burials per annum,
(iii) entirely on a secondary A aquifer, where the number of burials is less than 50 burials per annum,
(iv) entirely on a principal aquifer and not in a groundwater Source Protection Zone 2, where the number of burials is less than 30 burials per annum, or
(v) on any combination of strata mentioned in paragraphs (i) to (iv), subject to sub-paragraph (4), and
(n) the new cemetery or extension does not need ongoing active control measures to be in place to protect the environment.

(4) Where a new cemetery or extension is, pursuant to sub-paragraph (3)(m)(v), partly located on one of the strata mentioned in sub-paragraph (3)(m)(ii), (iii) or (iv), the restriction on the numbers of burials per annum in sub-paragraph (3)(m)(ii), (iii) or (iv) (as the case may be) applies to the area of the new cemetery or extension located on that strata.

(5) In sub-paragraph (3)—
"groundwater flooding" means flooding where the water table beneath the ground rises and causes water to seep out at ground level;
"groundwater Source Protection Zone 2" means a zone—
(a) within—
(i) 250m of a point at which water is abstracted for domestic or food production purposes from underground strata where the maximum allowable annual volume as authorised by a licence under section 24 of the Water Resources Act 1991 or allowed by virtue of section 27 of that Act (as the case may be) divided by 365 is less than 2,000 m3 per day, or
(ii) 500m of a point at which water is abstracted for domestic or food production purposes from underground strata where the maximum allowable annual volume as authorised by a licence under section 24 of the Water Resources Act 1991 divided by 365 is equal to or greater than 2,000 m3 per day, or
(b) defined by a 400-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes,
whichever is larger;
"principal aquifer" means geological strata which—
(a) exhibit a high intergranular or fracture permeability, and

(b) provide a high level of water storage and support water supply or base flow to rivers, lakes and wetlands on a strategic scale;

"secondary A aquifer" means permeable strata capable of supporting water supplies at a local rather than strategic scale;

"secondary B aquifer" means predominantly lower permeability strata including where they have, in part, the ability to store and yield limited amounts of groundwater by virtue of localised features such as fissures, thin permeable horizons or weathering;

"secondary undifferentiated rocks" means rock deposits or strata with variable permeability and storage properties which are not consistently a secondary A aquifer or secondary B aquifer;

"unproductive strata" means geological strata which—

(a) have a low permeability that has negligible significance for water supply or river base flow, and

(b) consist of deposits that naturally offer protection to any aquifers that may be present beneath.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.5(b)(iv) (October 2, 2023)

Extent

Sch. 3(3) para. 7(1)-(5) definition of "unproductive strata" (b): England, Wales

PART 4

Exempt flood risk activities: descriptions and conditions

Law In Force

1.— General and interpretation

(1) The descriptions in this Part are set out in paragraphs 2 to 28, in their respective first sub-paragraphs.

(2) The specific conditions relating to each description in this Part are set out in paragraphs 2 to 28, in their respective second sub-paragraphs.

(3) The general conditions relating to all descriptions in this Part are that the activity is not carried out—

(a) on a designated site or—

(i) in the case of the description set out in paragraphs 2 to 4, 6, 8, 9, 12, 13, 15, 16, 18 to 20 and 25 to 28, in their respective first sub-paragraphs, within a 200 metre radius of a designated site;

(ii) in the case of the description set out in paragraphs 5, 7, 10, 11, 14 and 17, in their respective first sub-paragraphs, within a 500 metre radius of a designated site;
(iii) in the case of the description set out in paragraphs 21, 22 and 24, in their respective first sub-paragraphs, within one kilometre upstream of a designated site;
(iv) in the case of the description set out in paragraph 23, in its first sub-paragraph, within—

(aa) 5 kilometres upstream of a designated site notified for its freshwater habitats or species,
(bb) 1 kilometre upstream of a designated site that includes any part of the flood plain of the relevant main river but not the river itself, or
(cc) 1 kilometre upstream of any other designated site,

(b) in a water body in Wales that is part of a main river classified as of high morphological status by the NRBW in accordance with the relevant directions,
(c) where the activity is carried out in Wales, within 100 metres of a water body in Wales that is part of a main river classified as of high morphological status by the NRBW in accordance with the relevant directions, or
(d) in the case of the descriptions set out in paragraphs 3, 5, 7, 10 to 15, 18, 21 to 24 and 27, in their respective first sub-paragraphs, where the activity is carried out in England within 100 metres of a water body in Wales that is part of a main river classified as of high morphological status by the NRBW in accordance with the relevant directions.

(4) In sub-paragraph (3), "designated site" means—
(a) a European site (which has the meaning given in **[** regulation 8 of the Conservation of Habitats and Species Regulations 2017 **]** [1]),
(b) a Ramsar site (which has the same meaning as in section 37A of the Wildlife and Countryside Act 1981[2]),
(c) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981), or
(d) a nature reserve established by a local authority under section 21 of the National Parks and Access to the Countryside Act 1949[3].

(5) For the purposes of this Part—
"designated salmonid river" means—

(a) in England, a river included in the dataset sealed by the Agency on 22nd October 2015, entitled "Rivers in England identified as salmonid for flood risk activities under the Environmental Permitting Regulations", and published by the Agency[4];
(b) in Wales, a river included on the map published by the NRBW on 20th October 2015 entitled "Rivers in Wales identified as salmonid for flood risk activities under the Environmental Permitting Regulations"[5];

"designated sensitive water body" means a water body included in the dataset sealed by the Agency on 20th October 2015 entitled "Water bodies in England identified as sensitive for flood risk activities under the Environmental Permitting Regulations because sediment management may compromise delivery of the environmental objectives of the Water Framework Directive" and published by the Agency[4];
"the dredging and removal of silt and sand requirements" means the document published by the Agency on 1st February 2016 entitled "Dredging and the removal of silt and sand from main rivers as a flood risk activity under the Environmental Permitting Regulations"[4];
"protected species" means—

[(a) a species of a kind listed in Annex 1 to Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds[7] or Annex 4 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora[8] ;] [6]

(b) a species in respect of which any adverse impact is in accordance with a licence issued under section 16 of the Wildlife and Countryside Act 1981[9] ;

"relevant directions" means the Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015[10] .

(6) In this Part, "bank" has the meaning given in paragraph 2(2)(a) in Part 1 of Schedule 25 and paragraph 2(2)(b) to (d) of that Schedule applies to this Part.

[(7) In sub-paragraph (5), in sub-paragraph (a) of the definition of "protected species", a reference to a species listed in an Annex to Directive 2009/147/EC or Council Directive 92/43/EEC is to be construed as including a reference to any other species protected under the Conservation of Habitats and Species Regulations 2017.] [11]

Notes

1 Words substituted by Conservation of Habitats and Species Regulations 2017/1012 Sch.6(2) para.73(2)(c) (November 30, 2017)

2 Section 37A was inserted by section 77 of the Countryside and Rights of Way Act 2000 and was amended by paragraph 86 of Part 1 of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c. 16), by paragraphs 5 and 7 of Schedule 2 to the Planning (Wales) Act 2015 (anaw. 4) and by S.I. 2013/755 (W. 90).

3 Section 21 was amended by Schedule 30 to the Local Government Act 1972 (c. 70), by paragraphs 15(e) and 19 of Part 1 of Schedule 11 to the Natural environment and Rural Communities Act 2006, and by paragraph 1 of Part 1 of Schedule 2 to the Environment (Wales) Act 2016 (anaw. 3).

4 A copy may be obtained from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY.

5 The map is available at https://naturalresources.wales/media/5634/flood-epr-salmonids.pdf. A copy may be obtained from Natural Resources Wales, c/o Customer Care Centre, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

6 Substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(9)(c)(i)(aa) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

7 OJ No L 20, 26.1.2010, p 7, as amended by Council Directive 2013/17/EU (OJ No L 158, 10.6.2013, p 193).

8 OJ No L 206, 22.7.1992, p 7, as last amended by Council Directive 2013/17/EU (OJ No L 158, 10.6.2013, p 193).

9 Section 16 was amended by paragraph 11(4) of Schedule 9 to the 1990 Act, paragraph 6 of Schedule 12 to the Countryside and Rights of Way Act 2000, paragraph 72 of Part 1 of Schedule 11 to the Natural Environment and Rural Communities Act 2006, section 10 of the Marine and Coastal Access Act 2009 (c. 23) and by S.I. 1995/2825, 2007/1843 and 2013/755 (W. 90).

10 These Directions were made on 9th September 2015 in exercise of powers in section 40(2) of the 1995 Act and are available at http://www.legislation.gov.uk/uksi/2015/1623/pdfs/uksiod_20151623_en.pdf. A copy may be obtained from the Flood Risk Management Team, the Department for Environment, Food and Rural Affairs, Area 3C, Nobel House, 17 Smith Square, London SW1P 3JR.

11 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(9)(c)(i)(bb) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 3(4) para. 1(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 1(1)-(7): England, Wales

Law In Force

2.— Electrical cable services

(1) The erection of an electrical cable service crossing over a main river.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the service crossing is within 10° of perpendicular to the direction of flow of the main river,

(b) the vertical and horizontal clearances of the service crossing comply with the requirements set out in the table below,

(c) permanent hazard markers are erected on both banks of the main river,

(d) the bed and banks of the main river are not disturbed by the works, and

(e) all excavated material not re-used on the site of the works is removed from the floodplain.

Voltage (kV)	*Vertical clearance[1] (metres)*	*Horizontal clearance[2] (metres)*
275	15	15
400	15	15
132	12	15
66	12	15
33	9	10
11	9	10
6.6	9	10
4.15	6	9

Notes

[1] Vertical clearance above bank or flood bank crest level.

[2] Horizontal clearance of any tower or support landward from the top of the bank of the main river.

Commencement

Sch. 3(4) para. 2(1)-(2)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 2(1)-(2)(e): England, Wales

Law In Force

3.— Service crossings below the bed of a main river

(1) The erection of a service crossing below the bed of a main river by directional drilling not involving an open cut technique.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the service crossing is within 10° of perpendicular to the direction of flow in the main river,

(b) a distance is maintained—

(i) of no less than 1.5 metres from the bed of the main river to the top of the service crossing, and

(ii) at the same height above sea level between points that are 5 metres beyond the top of each bank of the main river,

(c) the distance from the launch and reception pits to the landward side of each bank of the main river is—

(i) 8 or more metres in the case of a non-tidal main river;

(ii) 16 or more metres in the case of a tidal main river;

(d) the service crossing does not pass through any bank, culvert, remote defence or river control works on the main river or through any sea defence,

(e) the service crossing is 50 or more metres upstream of any impoundment or artificially raised channel,

(f) permanent hazard markers are erected on both banks of the main river,

(g) all excavated material not re-used on the site of the works is removed from the floodplain,

(h) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(i) the bed and banks of the main river are not disturbed by the works.

Commencement

Sch. 3(4) para. 3(1)-(2)(i): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 3(1)-(2)(i): England, Wales

Law In Force

4.— Service crossings attached to the outside of existing structures over a main river

(1) Service crossings attached to the outside of existing structures over a main river.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the service crossing does not project more than 1 metre horizontally from the structure,

(b) the service crossing follows the existing cross-sectional profile of the structure to the main river in both normal and flood flow,

(c) the service crossing does not pass through any bank, culvert, flood defence structure or river control works on the main river or through any sea defence,

(d) permanent hazard markers are erected on both banks of the main river, and

(e) a notification has not been sent by the regulator to the landowner that the structure has been identified for removal or modification in order to achieve the [environmental objectives in relation to a river basin district] [1] .

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(9)(d) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 3(4) para. 4(1)-(2)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 4(1)-(2)(e): England, Wales

Law In Force

5.— Footbridges

(1) The construction of footbridges.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the length of the footbridge measured from the top of one bank of the main river to the top of the other bank is no more than 8 metres,

(b) the footbridge has no support in the watercourse, a deck width of no more than 1.5 metres and a kickerboard of no more than 100mm in height,

(c) the footbridge does not reduce the cross-sectional area of the channel in the main river,

(d) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(e) no works take place within 100 metres of any non-agricultural building in the floodplain or another man-made structure on or in the main river,

(f) the bed of the main river is not affected by the construction,

(g) the length of bank disturbed by the construction extends to no more than 1 metre on either side of the footbridge,

(h) the footbridge is securely attached to foundations which are no closer than 1 metre to the edge of the bank,

(i) construction of the footbridge does not require reinforcement of the bed or banks,

(j) the approach ramp or steps for the footbridge do not extend more than 4 metres from the landward side of the bank,

(k) the lowest point of the underside of the bridge is at least 600mm higher than the top of both banks of the main river,

(l) all excavated material not re-used on the site of the works is removed from the floodplain,

(m) the height of the land at each end of the footbridge is not changed by the construction,

(n) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(o) any parapet of the footbridge is of open construction comprising—

(i) post and rail,

(ii) post and wire mesh fencing of at least 100mm spacing, or
(iii) post and wire strands.

Commencement

Sch. 3(4) para. 5(1)-(2)(o)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 5(1)-(2)(o)(iii): England, Wales

Law In Force

6.— Temporary scaffolding in England

(1) The erection and use of temporary scaffolding in or over a main river in England.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the scaffolding will be in place for no longer than 4 weeks,
(b) the scaffolding is not in place between 15th March and 15th June inclusive in any year,
(c) on a main river that is a designated salmonid river, the scaffolding is not in place between 1st October and 14th March inclusive in any year,
(d) the scaffolding does not occupy more than 10 metres of a river bank at any one time,
(e) the scaffolding projects into or over the main river no more than 1.2 metres or no more than 10% of the width of the main river, whichever is less,
(f) the scaffolding is located no less than 100 metres from any other scaffolding the erection and use of which is reliant on this exemption,
(g) except where it is unsafe to do so, debris lodged against the scaffolding is removed within 24 hours, and
(h) any transoms and walking decks are set no lower than 600 mm above water level.

Commencement

Sch. 3(4) para. 6(1)-(2)(h): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 6(1)-(2)(h): England, Wales

Law In Force

7.— Temporary dewatering in England

(1) The temporary dewatering of a work area in England.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the duration of the dewatering is no longer than 4 weeks,
(b) the dewatering is not in place between 15th March and 15th June inclusive in any year,
(c) on a main river that is a designated salmonid river, the dewatering is not in place between 1st October and 14th March inclusive in any year,

(d) the dewatering does not affect more than 10 metres of the bank of a main river at any one time,
(e) the dewatering is not within 8 metres of a flood defence structure or river control works,
(f) the depth of water adjacent to the dewatered area does not exceed 1.2 metres,
(g) the dewatering does not occur in, or within 500 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,
(h) all reasonable steps are taken to protect aquatic plants and aquatic animals found in the dewatered area,
(i) the dewatering structure projects into or over the main river no more than 1.2 metres or no more than 10% of the width of the main river, whichever is less,
(j) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,
(k) all excavated material not re-used on the site of the works is removed from the floodplain,
(l) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and
(m) any pumps used in the dewatering process are fitted with a 20mm mesh screen.

Commencement

Sch. 3(4) para. 7(1)-(2)(m): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 7(1)-(2)(m): England, Wales

Law In Force

8.— Maintenance of raised river or sea defences

(1) The maintenance of raised river or sea defences.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the maintenance works use materials of the same kind as those present in the raised defences and do not alter the shape of those defences or the overall height of the protection afforded by those defences,
(b) the raised defences are carrying out the functions for which they were originally designed, and
(c) the works do not disturb the bed or, up to normal ground level, the banks of the main river.

Commencement

Sch. 3(4) para. 8(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 8(1)-(2)(c): England, Wales

Law In Force

9.— Maintenance of structures within the channel of a main river

(1) The maintenance of structures within the channel of a main river other than raised river or sea defences.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the maintenance works do not alter any dimension of the structure,

(b) the structure is carrying out the functions for which it was originally designed,

(c) the maintenance works use materials of the same kind as those present in the structure,

(d) the maintenance works do not occur between 15th March and 15th June inclusive in any year,

(e) on a main river that is a designated salmonid river, the maintenance works do not occur between 1st October and 14th March inclusive in any year, and

(f) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species.

Commencement

Sch. 3(4) para. 9(1)-(2)(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 9(1)-(2)(f): England, Wales

Law In Force

10.— Drinking bays

(1) The construction of a drinking bay on the bank of a main river.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the bay is not located within 100 metres of any other man-made structure on or in the main river,

(b) the bay is surrounded by a post and rail fence which must project into or over the main river no more than 1.2 metres or 10% of the width of the main river, whichever is less,

(c) the base of the bay has a surface made of concrete, stone or inert hard core,

(d) all excavated material not re-used on the site of the works is removed from the floodplain,

(e) the works do not adversely affect any culvert, remote defence, river control works, sea defence or any raised embankment or wall forming part of the bank of the main river,
(f) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,
(g) the works do not occur in, or within 500 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,
(h) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and
(i) the remainder of the bank is fenced so as to prevent damage to the bank.

Commencement

Sch. 3(4) para. 10(1)-(2)(i): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 10(1)-(2)(i): England, Wales

Law In Force

11.— Access platforms

(1) The construction of access platforms on the bank of a main river or that project into or over a main river.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the platform is not located within 50 metres of any other man-made structure,
(b) the platform projects no more than 1.2m into or over the main river and occupies no more than 2m of bank length,
(c) the works do not adversely affect any culvert, remote defence, river control works, sea defence or any raised embankment or wall forming part of the bank of the main river,
(d) that part of the platform which projects over the channel is constructed as a flat deck, with no solid infill beneath the platform, supported on piers or piles of no more than 300mm width,
(e) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,
(f) the works do not occur in, or within 500 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(g) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and
(h) any steps cut into the bank are supported by timber risers on the vertical part of the step.

Commencement

Sch. 3(4) para. 11(1)-(2)(h): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 11(1)-(2)(h): England, Wales

Law In Force

12.— Outfalls

(1) The construction of small outfall pipes and headwalls to main rivers.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the headwall is not located within 50 metres of another man-made structure on or in the main river,
(b) in the case of a headwall to a non-tidal main river, the outfall pipe is aligned to an angle of between 30° and 60° to the direction of flow in the river,
(c) the diameter of the outfall pipe is less than 300mm,
(d) the height of the headwall is no more than 1.5 metres or no more than 75% of the height of the bank, whichever is less,
(e) the total length of bank affected during construction of the headwall is no more than 1.5 metres,
(f) the headwall, wing walls and apron do not project beyond the line of the bank prior to the works being carried out,
(g) the headwall is not within 8 metres of a flood defence structure or river control works,
(h) the outfall pipe does not pass through or under any culvert, remote defence, river control works or sea defence, or any raised embankment or wall forming part of the bank of the main river,
(i) all excavated material not re-used on the site of the works is removed from the floodplain,
(j) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,
(k) the works do not occur in, or within 200 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,
(l) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and
(m) any pipe that discharges through the headwall does not pass within 8 metres of a flood defence structure.

Commencement

Sch. 3(4) para. 12(1)-(2)(m): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 12(1)-(2)(m): England, Wales

Law In Force

13.— Repair and protection of banks using natural materials

(1) The repair and protection of main river banks using natural materials.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the length of bank affected by the works is no more than 10 metres,

(b) the works do not include the use of steel sheet piling, concrete, cement or concrete bagwork, brickwork, gabions or non-biodegradable materials,

(c) the works do not take place within 50 metres of a bank that has been reinforced,

(d) the works do not encroach into the channel of the main river beyond the line of the bank prior to the works being carried out,

(e) when the works are finished, the height of the bank does not exceed the lower of—

(i) the height of the bank on either side of the works, and

(ii) the height of the bank prior to the works being carried out,

(f) the works are securely fastened to the bank at each end so as to prevent erosion behind the works,

(g) the works do not involve the use of vehicles or wheeled or tracked machinery on the bed or bank of the main river,

(h) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(i) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(j) the works are not to a bank consisting of an earth cliff over 1 metre in height.

Commencement

Sch. 3(4) para. 13(1)-(2)(j): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 13(1)-(2)(j): England, Wales

Law In Force

14.— Repair of bank slips and erosion

(1) Repair of bank slips and erosion.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the works do not involve removal of material from the bed of the main river other than bank slippage,

(b) the works do not affect more than 10 metres of the bank at any one time,

(c) the works do not encroach into the channel of the main river beyond the line of the bank prior to the works being carried out,

(d) when the works are finished, the height of the bank does not exceed the lower of—

(i) the height of the bank on either side of the works, and

(ii) the height of the bank prior to the slip or erosion,

(e) the works are securely fastened to the bank at each end so as to prevent erosion behind the works,

(f) any repair of a bank slippage is made using as materials only material that has subsided from that bank,

(g) any repair of erosion uses materials of the same kind as those present on the relevant site,

(h) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(i) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(j) the works do not involve the use of a vehicle or of wheeled or tracked machinery on the bed or banks of the main river.

Commencement

Sch. 3(4) para. 14(1)-(2)(j): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 14(1)-(2)(j): England, Wales

Law In Force

15.— Channel habitat structures made of natural materials

(1) The installation of channel habitat structures made of natural materials (excluding weirs and berms).

(2) For the purposes of this paragraph, the specific conditions are—

(a) the structure occupies no more than half the width of the cross-sectional area of the channel in the main river and no more than 20 metres of the length of the main river,

(b) no part of the structure is higher than 0.3 metres above the level of the river bed or 25% of the height of the bank (excluding any wall or embankment forming part of the bank), whichever is greater,
(c) the structure is made from naturally occurring woody material and is securely fastened to the bed of the main river, the bank or both,
(d) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and
(e) no works take place within 100 metres of—
(i) a non-agricultural building in the floodplain,
(ii) another natural channel habitat structure,
(iii) stones or logs placed in the main river for habitat enhancement, or
(iv) a man-made structure on or in the main river.

Commencement

Sch. 3(4) para. 15(1)-(2)(e)(iv): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 15(1)-(2)(e)(iv): England, Wales

Law In Force

16.— Rafts for surveys

(1) The installation of rafts for surveys.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the raft has dimensions of no greater than 1.5 metres × 1 metre × 0.15 metre,
(b) any equipment box used on the raft has a height of no more than 0.75 metre,
(c) the raft is permanently and securely attached to the bank,
(d) the raft is installed no less than 100 metres from any other raft,
(e) when the raft is installed, there are no more than four other rafts within a distance of one kilometre,
(f) the raft is installed for no more than 12 months and removed immediately if, within that period, it is no longer required, and
(g) the raft is not installed within 100 metres of any non-agricultural building in the floodplain or another man-made structure on or in the main river.

Commencement

Sch. 3(4) para. 16(1)-(2)(g): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 16(1)-(2)(g): England, Wales

Law In Force

17.— Gravel-cleaning for fish-spawning beds

(1) Gravel-cleaning for fish-spawning beds.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the works are only carried out in September or October in any year,

(b) the works are to no more than 20m^2 of gravel per location, with a gap of at least 30 metres between locations,

(c) the works do not adversely affect the banks or established bed of the main river,

(d) the works are carried out using only hand tools or machinery carried and operated by one person, and

(e) the works do not occur in, or within 500 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016.

Commencement

Sch. 3(4) para. 17(1)-(2)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 17(1)-(2)(e): England, Wales

Law In Force

18.— Placement of stones or logs in a main river in England for habitat enhancement

(1) Placement of stones or logs in the channel of a main river in England for habitat enhancement.

(2) For the purposes of this paragraph, the specific conditions are—

(a) any stones placed in the channel are of a type that occur naturally in the main river and do not exceed 400mm in any dimension,

(b) any log placed in the channel is less than 2 metres in length, less than 400mm in diameter and oriented at an angle of within 45° to the flow of water,

(c) any log placed in the channel—

(i) is from a type of tree that occurs naturally in the vicinity of the main river, and

(ii) is securely fixed to the bed or bank of the main river,

(d) the stones or logs are placed in the channel over no more than 20 metres of the length, and 20% of the width, of the main river,

(e) the placement of stones or logs does not occur in, or within 200 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(f) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(g) no stones or logs are placed within 100 metres of—

(i) a non-agricultural building in the floodplain,

(ii) a natural channel habitat structure,
(iii) an existing emplacement of stones or logs placed in the main river for habitat enhancement, or
(iv) a man-made structure on or in the main river.

Commencement

Sch. 3(4) para. 18(1)-(2)(g)(iv): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 18(1)-(2)(g)(iv): England, Wales

Law In Force

19.— Eel pass devices

(1) Construction of eel pass devices on existing structures.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the existing structure is not located on a tidal river,
(b) the device is permanently and securely attached to the existing structure,
(c) the width of the device is no more than 5% of the width of the main river, and
(d) the device does not extend upstream or downstream from the existing structure more than the lesser of—
(i) 10 metres, or
(ii) the width of the channel measured between the top of each bank of the main river.

Commencement

Sch. 3(4) para. 19(1)-(2)(d)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 19(1)-(2)(d)(ii): England, Wales

Law In Force

20.— [Notches] [1]

(1) Construction of **[…]**[2] notches on an existing impoundment.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the construction does not affect the structural integrity of the existing impoundment,
(b) construction of the notches does not change the water level in the main river by more than 20cm upstream or downstream from the existing structure,
(c) the existing impoundment is located on a main river with a width of no more than 5 metres measured between the top of each bank,

(d) the construction does not adversely affect the banks or established bed of the main river, and

(e) the notch is no more than 0.6 metre in width.

Notes

[1] Word substituted by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(3)(a) (January 7, 2019)

[2] Words revoked by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(3)(b) (January 7, 2019)

Commencement

Sch. 3(4) para. 20(1)-(2)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 20(1)-(2)(e): England, Wales

Law In Force

21.— Removal of silt, sand and other material in England

(1) The removal of silt and sand from within bridge arches in England and any material from within culverts in England.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the works do not affect the structural integrity of the bridge arch or culvert,

(b) in the case of works within bridge arches, the removal of silt and sand is limited to the removal of accumulated silt and sand on the established bed of the main river,

(c) the works do not occur in, or within 1 kilometre upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(d) the works and the subsequent deposition of the removed material do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(e) the works do not occur between 15th March and 15th June inclusive in any year,

(f) on a main river that is a designated salmonid river, the works do not occur between 1st October and 14th March inclusive in any year,

(g) the works do not expose the structural foundations or footings of the bridge or culvert,

(h) the works and any equipment used to remove the sand and silt comply with the dredging and removal of silt and sand requirements,

(i) the works do not involve the use of machinery on the bed or banks of the main river more than 20 metres from the bridge or culvert,

(j) the works do not involve the use of a vehicle on the bed or banks of the main river,

(k) the works do not damage the culvert or the banks or bed of the main river, and

(l) the works are not carried out in, or within 1 kilometre upstream or 500 metres downstream of, a water body that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions.

Commencement

Sch. 3(4) para. 21(1)-(2)(l): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 21(1)-(2)(l): England, Wales

Law In Force

22.— Removal of silt and sand adjacent to in-river structures in England

(1) The removal of silt and sand adjacent to in-river structures in England.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the works take place no more than 10 metres upstream or downstream from the edge of the structure,

(b) the removal of silt and sand does not affect the structural integrity of the structure,

(c) the works do not damage the banks or bed of the main river,

(d) the works are limited to the removal of accumulated silt and sand on the established bed of the main river,

(e) the removal of silt and sand does not expose the structural foundations or footings of the structure,

(f) silt and sand is not removed to below the level of the base of the inside of an adjacent culvert,

(g) the works do not remove vegetation from the bed or banks of the main river, other than vegetation growing in or through the silt and sand,

(h) the works do not involve the use of a vehicle or machinery on the bed or banks of the main river,

(i) the removal of silt and sand does not occur in, or within 1 kilometre upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(j) the removal of silt and sand and its subsequent deposition do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(k) the removal of silt and sand does not occur between 15th March and 15th June inclusive in any year,

(l) on a main river that is a designated salmonid river, the removal of silt and sand does not occur between 1st October and 14th March inclusive in any year,

(m) the works and any equipment used to remove the sand and silt comply with the dredging and removal of silt and sand requirements,

(n) the works are not carried out in, or within one kilometre upstream or 500 metres downstream of, a water body that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and
(o) the removal of silt and sand does not occur in a designated sensitive water body.

Commencement

Sch. 3(4) para. 22(1)-(2)(o): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 22(1)-(2)(o): England, Wales

Law In Force

23.— Dredging of man-made ditches, land drains, agricultural drains and previously straightened watercourses in England

(1) Dredging of no more than 1.5 kilometres of man-made ditches, land drains, agricultural drains and previously straightened watercourses classified as main rivers in England.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the works do not occur in any location where dredging has been carried out within the previous 3 years,
(b) the works do not occur in any location on a watercourse where dredging has taken place within 1.5 kilometres upstream or downstream of that location in the previous 12 months,
(c) the works are completed within 3 years of registration of the exemption,
(d) the works do not damage the bed or banks of the main river,
(e) the dredging does not include the removal of gravel,
(f) the dredging is limited to the removal of accumulated silt and sand on the established bed of the main river,
(g) the works do not remove vegetation from the bed or banks of the main river, other than vegetation growing in or through the silt and sand,
(h) the works do not involve the use of a vehicle or machinery on the bed or banks of the main river,
(i) the works do not occur in, or within one kilometre upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,
(j) the dredging and subsequent deposition of dredged material do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,
(k) the works do not occur between 15th March and 15th June inclusive in any year,
(l) on a main river that is a designated salmonid river, the works do not occur between 1st October and 14th March inclusive in any year,
(m) the works and any equipment used comply with the dredging and removal of silt and sand requirements,

(n) the works are not carried out in, or within 1 kilometre upstream or 500 metres downstream of, a water body that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions,
(o) the works do not occur in a designated sensitive water body,
(p) on a non-tidal main river, the works do not occur within 8 metres of a flood defence structure or river control works, and
(q) on a tidal main river, the works do not occur within 16 metres of a flood defence structure or sea defence.

Commencement

Sch. 3(4) para. 23(1)-(2)(q): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 23(1)-(2)(q): England, Wales

Law In Force

24.— Dredging of any main river in England

(1) Dredging of no more than 20 metres of any main river in England.

(2) For the purposes of this paragraph, the specific conditions are—
(a) no dredging has been carried out in the previous 12 months in the same main river and property,
(b) the works are completed within 12 months of registration of the exemption,
(c) the works do not damage the bed or banks of the main river,
(d) the dredging does not include the removal of gravel,
(e) the works do not remove vegetation from the bed or banks of the main river, other than vegetation growing in or through the silt and sand,
(f) the dredging is limited to the removal of accumulated silt and sand on the established bed of the main river,
(g) the works do not involve the use of a vehicle or machinery on the bed or banks of the main river,
(h) the works do not occur in, or within 1 kilometre upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,
(i) the dredging and subsequent deposition of dredged material do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,
(j) the works do not occur between 15th March and 15th June inclusive in any year,
(k) on a main river that is a designated salmonid river, the works do not occur between 1st October and 14th March inclusive in any year,
(l) the works and any equipment used comply with the dredging and removal of silt and sand requirements,

(m) the works are not carried out in, or within 1 kilometre upstream or 500 metres downstream of, a water body that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and
(n) the dredging does not occur in a designated sensitive water body.

Commencement

Sch. 3(4) para. 24(1)-(2)(n): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 24(1)-(2)(n): England, Wales

Law In Force

25.— Excavation of scrapes and shallow wetland features

(1) The excavation of scrapes and shallow wetland features in a floodplain.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the area of the excavation is no more than 0.1 hectare and takes place at least 100 metres from any other excavation in the floodplain,
(b) the excavation is no more than 500mm deep at any point,
(c) where spoil from the excavation is spread on the floodplain, the spoil is spread to a depth of no more than 100mm, and
(d) the excavation is at least 8 metres from any structure forming part of a flood defence and from the landward side of each bank of the main river.

Commencement

Sch. 3(4) para. 25(1)-(2)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 25(1)-(2)(d): England, Wales

Law In Force

26.— Raised flood defences in England

(1) The construction of raised flood defences around one to six adjoining properties in England.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the works are not within 8 metres of a main river,
(b) the dimensions of the flood defences are no more than 1 metre in height and 6 metres in width,
(c) the defences are located at least 20 metres from any building not owned by the owners of the properties,
(d) the total area protected by the defences is no more than $150m^2$ for each property,
(e) the defences are to protect existing buildings, and

(f) the works are within the existing boundary of the properties.

Commencement

Sch. 3(4) para. 26(1)-(2)(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 26(1)-(2)(f): England, Wales

Law In Force

27.— Bankside wildlife refuge structures

(1) Construction of bankside wildlife refuge structures.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the length of bank excavated during construction of the structure is no more than 1.5 metres,

(b) the height of the structure is no more than 1.5 metres or no more than 75% of the height of the bank, whichever is less,

(c) the structure is not located within 50 metres of another man-made structure on or in the main river,

(d) the structure is not located within 8 metres of a flood defence structure or river control works,

(e) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(f) the structure does not project beyond the line of the bank prior to the works being carried out.

Commencement

Sch. 3(4) para. 27(1)-(2)(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 27(1)-(2)(f): England, Wales

Law In Force

28.— Improvement works for tracks and paths

(1) Improvement works for tracks and paths.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the works are to an existing track or path,

(b) the works do not alter the route or width of the track or path,

(c) the works do not disturb the bed or banks of any main river,

(d) the works do not increase the level of the path by more than 100mm, and

(e) when the works are completed, all materials and debris are removed from the site.

Commencement

Sch. 3(4) para. 28(1)-(2)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(4) para. 28(1)-(2)(e): England, Wales

PART 5

Other waste operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions

Law In Force

1.— General and interpretation

(1) The descriptions in this Part are set out in the first sub-paragraph of each paragraph.

(2) The conditions for each description are set out in the second sub-paragraph of each paragraph.

(3) In this Part—

"collection" has the same meaning as in Article 3(10) of the Waste Framework Directive;

"collection point" means a place which is used for the collection of waste by an establishment or undertaking where the establishment or undertaking does not—

(a) receive payment for collecting the waste, or

(b) collect waste as its main business activity;

"place of production" has the meaning given in paragraph 1(1) of Part 1 of this Schedule.

(4) For the purposes of this Part, a container, lagoon or other place is secure in relation to waste kept in it if—

(a) all reasonable precautions are taken to ensure that the waste cannot escape from it, and

(b) members of the public are unable to gain access to the waste.

Commencement

Sch. 3(5) para. 1(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(5) para. 1(1)-(4)(b): England, Wales

Law In Force

2.— Temporary storage at the place of production

(1) The temporary storage of any waste at the place of production, pending its collection.

(2) For the purposes of this paragraph, the conditions are—

(a) no waste is stored for longer than 12 months, and

(b) the waste is stored in a secure place.

Commencement

Sch. 3(5) para. 2(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(5) para. 2(1)-(2)(b): England, Wales

Law In Force

3.— Temporary storage of waste at a place controlled by the producer

(1) The temporary storage of any waste, pending its collection, at a place controlled by the producer of the waste.

(2) For the purposes of this paragraph, the conditions are—

(a) the producer has control over the waste and the storage place,

(b) the waste does not contain or consist of—

(i) unbonded asbestos, or

(ii) any substance with a flash point of less than 21 degrees Celsius,

(c) the operation is not carried on in the course of providing a waste management service to another person,

(d) the waste is stored in a secure place,

(e) where more than one type of waste is stored, the types are not mixed,

(f) no waste is stored for longer than 3 months,

(g) in relation to non-liquid waste, the total quantity stored at any one time does not exceed 50 cubic metres, and

(h) in relation to liquid waste—

(i) the total quantity stored at any one time does not exceed 1,000 litres, and

(ii) the waste is stored in a container with secondary containment.

Commencement

Sch. 3(5) para. 3(1)-(2)(h)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(5) para. 3(1)-(2)(h)(ii): England, Wales

Law In Force

4.— Temporary storage at a collection point

(1) The temporary storage of waste at a collection point for the purposes of recovering or disposing of the waste elsewhere.

(2) For the purposes of this paragraph, the conditions are that—

(a) the waste does not contain or consist of—

(i) asbestos;

(ii) any substance with a flash point of less than 21 degrees Celsius,

(b) where more than one type of waste is stored, the types are not mixed,

(c) in relation to WEEE, the total quantity of waste stored at any one time does not exceed 30 cubic metres,

(d) in relation to non-hazardous waste that—

(i) is not WEEE, and

(ii) is to be recovered elsewhere,

the total quantity of waste stored any one time does not exceed 50 cubic metres, and

(e) in relation to waste not covered by paragraph (d) or (e), the total quantity of waste stored at any one time does not exceed 5 cubic metres.

Commencement

Sch. 3(5) para. 4(1)-(2)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 3(5) para. 4(1)-(2)(e): England, Wales

SCHEDULE 4

Application to the Crown

Regulation 11

Law In Force

1. Crown application

Subject to paragraphs 2 to 5, these Regulations bind the Crown.

Commencement

Sch. 4 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 4 para. 1: England, Wales

Law In Force

2.— Contravention of these Regulations by the Crown

(1) If the Crown contravenes a provision of these Regulations—

(a) it is not criminally liable under regulation 38, and

(b) no proceedings may be taken against it under regulation 42.

(2) But—

(a) on the application of a regulator, the High Court may declare a contravention of these Regulations by the Crown to be unlawful, and

(b) these Regulations apply to persons in the public service of the Crown as they apply to other persons.

Commencement

Sch. 4 para. 2(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 4 para. 2(1)-(2)(b): England, Wales

Law In Force

3.— Entry to Crown premises

(1) If the appropriate authority considers that in the interests of national security particular powers of entry must not be used in relation to particular Crown premises it may certify that those powers must not be used in relation to those premises.

(2) In this paragraph—

"Crown premises" means premises held or used by or on behalf of the Crown;

"power of entry" means a power of entry exercisable under section 108 of the 1995 Act[1], in relation to a function under these Regulations.

Notes

[1] Section 108 was amended by section 55(6) to (9) of the Anti-social Behaviour Act 2003 (c. 38), section 53 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), and paragraph 3(1) to (4) of Part 1 of Schedule 2 to the Protection of Freedoms Act 2012 (c. 9), and by S.I. 2000/1973, 2010/675, 2013/755 (W. 90), 2015/374 and 2016/475. It is prospectively amended by Schedule 3 to the Pollution Prevention and Control Act 1999 (c. 24) from a date to be appointed.

Commencement

Sch. 4 para. 3(1)-(2) definition of "power of entry": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 4 para. 3(1)-(2) definition of "power of entry": England, Wales

Law In Force

4.— Service on certain Crown operators

(1) This paragraph applies in relation to a regulated facility controlled or operated by a person acting on behalf of—

(a) the Royal Household,

(b) the Duchy of Lancaster, or

(c) the Duke of Cornwall or other possessor of the Duchy of Cornwall.

(2) When serving or giving notices or notifications, or instituting proceedings, the following person must be treated as the operator—

(a) in relation to sub-paragraph (1)(a), the Keeper of the Privy Purse;

(b) in relation to sub-paragraph (1)(b), the person appointed by the Chancellor of the Duchy of Lancaster;

(c) in relation to sub-paragraph (1)(c), the person appointed by the Duke of Cornwall or other possessor of the Duchy of Cornwall.

Commencement

Sch. 4 para. 4(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 4 para. 4(1)-(2)(c): England, Wales

Law In Force

5.— Application of this Schedule to certain radioactive substances activities

(1) These Regulations do not bind the Crown in relation to a radioactive substances activity carried on at premises—

(a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or

(b) occupied by or for the purposes of visiting forces.

(2) In this paragraph, "visiting force" has the meaning given in section 12(1) of the Visiting Forces Act 1952[1].

Notes

[1] Section 12 was amended by paragraph 14 of Schedule 15 to the Criminal Justice Act 1988 (c. 33).

Commencement

Sch. 4 para. 5(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 4 para. 5(1)-(2): England, Wales

SCHEDULE 5

Environmental permits

Regulations 13(3) and 15(3)

PART 1

Grant, variation, transfer and surrender of environmental permits

Law In Force

1. Interpretation

In this Part—

"applicant" means—

(a) in the case of an application for the transfer of an environmental permit in whole or in part—

(i) the operator and the proposed transferee, or

(ii) the proposed transferee;

(b) in every other case, the operator;

"application" means an application—

(a) for the grant of an environmental permit under regulation 13(1),

(b) by an operator for the variation of an environmental permit under regulation 20(1),

(c) for the transfer, in whole or in part, of an environmental permit under regulation 21(1), or

(d) for the surrender, in whole or in part, of an environmental permit under regulation 25(2);

"public consultee" means a person whom the regulator considers is affected by, is likely to be affected by, or has an interest in, an application.

Commencement

Sch. 5(1) para. 1 definition of "applicant"- definition of "public consultee": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 1 definition of "applicant"- definition of "public consultee": England, Wales

Law In Force

2.— Making an application

(1) An application must—

(a) be made by the applicant on the form provided by the regulator, and
(b) include—
(i) such information as is specified on the form, and
(ii) any additional information required by the regulator.

(2) An application under regulation 13(1) for the grant of an environmental permit for a flood risk activity referred to in paragraph 3(1)(a) to (c) of Part 1 of Schedule 25 must be accompanied by—
(a) a fee of £50 for each flood risk activity to which the application relates, unless the regulator has made a charging scheme under section 41 of the 1995 Act[1] , or
(b) where the regulator has made such a charging scheme, the fee prescribed under that scheme.

(3) Any other application must be accompanied by any fee prescribed in a charging scheme made by the regulator under section 41 of the 1995 Act or by the appropriate authority under regulation 66.

Notes

[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.

Commencement

Sch. 5(1) para. 2(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 2(1)-(3): England, Wales

Law In Force

3.— Withdrawing an application

(1) A duly-made application may be withdrawn by the applicant before it is determined.

(2) If an application is withdrawn the applicant is not entitled to the return of any fee which accompanied it.

Commencement

Sch. 5(1) para. 3(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 3(1)-(2): England, Wales

Law In Force

4.— Further information in respect of a duly-made application

(1) If the regulator considers that it requires further information to determine a duly-made application, it may serve a notice on the applicant specifying the further information and the period within which it must be provided.

(2) If the applicant fails to provide the further information in accordance with the notice, the regulator may serve a further notice on the applicant stating that the application is deemed to be withdrawn, upon which the application is deemed to be withdrawn.

(3) If an application is deemed to be withdrawn, the applicant is not entitled to the return of any fee which accompanied it.

Commencement

Sch. 5(1) para. 4(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 4(1)-(3): England, Wales

Law In Force

5.— Public participation: scope

(1) Paragraph 6 applies to every application for the grant of an environmental permit except an application in relation to—

(a) mobile plant,

(b) a radioactive substances activity described in paragraph 11(5) of Part 2 of Schedule 23,

(c) a standard facility,

(d) a mining waste operation not involving a mining waste facility to which Article 7 of the Mining Waste Directive applies, **[…]**[1]

(e) a stand-alone flood risk activity—

(i) which is not likely to have a significant adverse effect on the environment, or

(ii) in respect of which public consultation has been carried out under another statutory requirement where that consultation addresses the potential environmental impact of the flood risk activity **[**, or**]** [1]

[(f) a medium combustion plant or a specified generator, unless the regulator determines that the operation of the medium combustion plant or specified generator may have significant negative effects on human beings or the environment. **]** [1]

(2) Paragraph 6 applies to every application for the variation of an environmental permit if—

(a) it would entail a substantial change, or

(b) the regulator determines that the paragraph should apply.

(3) Paragraph 8 applies to every regulator-initiated variation if—

(a) it would entail a substantial change, or

(b) the regulator determines that the paragraph should apply.

(4) But paragraphs 6 and 8 do not apply to the extent that the application or regulator-initiated variation relates to—

(a) the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts,

(b) dry cleaning,

(c) the unloading of petrol into stationary storage tanks at a service station if it is an activity within paragraph (c) of Part B of Section 1.2 of Part 2 of Schedule 1,

(d) any motor vehicle refuelling activity within paragraph (d), (e) or (f) of Part B of Section 1.2 of Part 2 of Schedule 1, or

(e) a stand-alone flood risk activity—

(i) which is not likely to have a significant adverse effect on the environment, or

(ii) in respect of which public consultation has been carried out under another statutory requirement where that consultation addresses the potential environmental impact of the flood risk activity.

(5) In this paragraph—

"change in operation" means a change in the nature or functioning, or an extension, of an installation, which may have consequences for the environment;

"dry cleaning" means an industrial or commercial activity using volatile organic compounds to clean garments, furnishing and similar consumer goods excluding the manual removal of stains and spots in the textile or clothing industry;

"substantial change" means a change in operation of an installation which in the regulator's opinion may have significant negative effects on human beings or the environment and includes—

(a) in relation to a Part A installation, a change in operation which in itself meets the thresholds, if any, set out in Part 2 of Schedule 1, and

(b) in relation to a waste incineration plant or waste co-incineration plant for non-hazardous waste, a change in operation which would involve the incineration or co-incineration of hazardous waste.

(6) When assessing whether a change in operation of a Part B installation has significant effects on the environment, the regulator must consider only its emissions to air.

[(7) When assessing whether the operation of a medium combustion plant or a specified generator may have significant negative effects on human beings or the environment, the regulator must consider only its emissions to air. **]** [2]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.13(a) (January 30, 2018)

[2] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.13(b) (January 30, 2018)

Commencement

Sch. 5(1) para. 5(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 5(1)-(7): England, Wales

Law In Force

6.— Public participation in relation to certain applications

(1) Subject to sub-paragraphs (2) and (3), if this paragraph applies the regulator must, within the consultation communication period—

(a) take the steps it considers appropriate to inform the public consultees of the application and the place and times its public register can be inspected free of charge,

(b) invite the public consultees to make representations on the application, and

(c) specify to the public consultees the address to which and the period within which representations are to be made.

(2) The regulator must not inform the public consultees of information which is to be excluded from a public register in the interests of national security unless the appropriate authority directs that it must do so.

(3) The regulator must not inform the public consultees of information which is to be excluded from a public register because it is confidential information, unless the public consultee is—

(a) a public authority and the information is necessary for the exercise of its functions, or

(b) a sewerage undertaker and the information relates to the release of any substance into a sewer vested in that undertaker.

Commencement

Sch. 5(1) para. 6(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 6(1)-(3)(b): England, Wales

Law In Force

7.— Calculation of the consultation communication period

(1) In paragraph 6, "the consultation communication period" means a period of 30 working days starting on the day the regulator receives a duly-made application.

(2) But the period starts on—

(a) the determination date, if a determination in relation to national security or confidentiality is made under regulation 47 or 50, or

(b) the day an information subject gives notice under regulation 49(2)(a) consenting to the regulator including information on the public register.

(3) In sub-paragraph (2), "determination date" means—

(a) the date of a determination under regulation 47(3) or (7),

(b) the date of a determination under regulation 50 that information must be excluded from the public register, or

(c) if the regulator determines under regulation 50 that information must be included on the public register—

(i) if an appeal is brought, the date of determination or withdrawal of that appeal, or
(ii) if no appeal is brought, the date on which the period for bringing an appeal expires.

Commencement

Sch. 5(1) para. 7(1)-(3)(c)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 7(1)-(3)(c)(ii): England, Wales

Law In Force

8.— Public participation in relation to regulator-initiated variations

(1) If this paragraph applies, the regulator must notify the operator—
(a) that the public participation procedures in sub-paragraph (2) apply,
(b) of the variation it proposes to the environmental permit, and
(c) of any fee prescribed in respect of this paragraph in a charging scheme made by the regulator under section 41 of the 1995 Act or by the appropriate authority under regulation 66.

(2) The regulator must—
(a) take the steps it considers appropriate to inform the public consultees of the proposed variation,
(b) invite the operator and the public consultees to make representations on the proposed variation, and
(c) specify to the operator and the public consultees the address to which and the period within which representations are to be made.

Commencement

Sch. 5(1) para. 8(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 8(1)-(2)(c): England, Wales

Law In Force

9.— Consultation: conditions mentioned in regulation 15(1)

(1) This paragraph applies if the regulator proposes to include a condition mentioned in regulation 15(1) in an environmental permit, other than a condition to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a condition that does not specifically identify the land in relation to which the operator is required to carry out works or, as the case may be, do other things.

(3) If this paragraph applies, the regulator must serve a notice which complies with sub-paragraph (4) on every person appearing to it to fall within sub-paragraph (5).

(4) The notice must specify—

(a) the proposed condition,

(b) the works or other things which the condition would require, and

(c) the address to which and the period within which representations on the proposed condition are to be made (which period must not expire less than 20 working days after the day the notice is served).

(5) A person falls within this sub-paragraph if—

(a) the person is the owner, lessee or occupier of land, and

(b) regulation 15(2) would require the person to grant the rights mentioned there if the proposed condition were included in the environmental permit.

(6) In sub-paragraph (5)(a), "owner" means the person who—

(a) is receiving the rack-rent of the land, whether on the person's own account or as agent or trustee for another person, or

(b) would receive the rack-rent if the land were let at a rack-rent,

but does not include a mortgagee not in possession.

Commencement

Sch. 5(1) para. 9(1)-(6)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 9(1)-(6)(b): England, Wales

Law In Force

10.— Consultation with […][1] member States

(1) This paragraph applies if—

(a) an appropriate authority is aware that the grant of a relevant application or regulator-initiated variation is likely to have significant negative effects on the environment of **[** a **]**[2] member State, or

(b) **[** a **]**[2] member State requests information about a relevant application or about a proposal for a regulator-initiated variation.

(2) As soon as is reasonably practicable the appropriate authority must—

(a) send the particulars of the relevant application or regulator-initiated variation to that member State **[…]**[3] ,

(b) inform that member State of the relevant information, **[…]**[4]

(c) notify the operator and the regulator that it has complied with paragraphs **[** (a) and (b) **]**[5] **[** , and **]**[6]

[(d) comply with sub-paragraph (2A). **]**[7]

[(2A) The appropriate authority must—

(a) consult the authorities of that member State, and

(b) allow such reasonable period as may have been agreed with those authorities for them to ensure that the authorities and the public concerned in that member State are given an opportunity to forward their representations on the relevant information supplied.

] [8]

(3) If a regulator receives notification under sub-paragraph (2)(c), it must not determine the application or make the regulator-initiated variation until the appropriate authority has—

(a) notified it that the **[** consultation described in sub-paragraph (2A)(a) has **]** [9] been completed, and

[(aa) notified it that the period described in sub-paragraph (2A)(b) has ended, and **]** [10]

(b) sent it any representations made by the member State.

(4) In this paragraph—

"member State" includes Iceland, Liechtenstein and Norway but only to the extent that there is a relevant application or regulator-initiated variation which relates to the carrying on at an installation of an activity listed in Annex I to the Industrial Emissions Directive;

"relevant application" means an application for the grant or variation of an environmental permit in relation to an installation described in sub-paragraph (5) or a Category A mining waste facility;

(a)-(b) **[…]**[11]

"relevant information" means—

(a) where the relevant application or regulator-initiated variation relates to an installation described in sub-paragraph (5), a matter in paragraph 1 of Annex IV to the Industrial Emissions Directive;

(b) where it relates to a Category A mining waste facility, the information **[** described in Article 7(2) **]** [12] of the Mining Waste Directive.

(5) The description in this sub-paragraph is an installation where an activity listed in Annex 1 to the Industrial Emissions Directive is carried on.

Notes

1 Word revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Word substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 Word substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(iii)(aa) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

4 Word revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(iii)(bb) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

5 Words substituted by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(4) (January 7, 2019)

6 Word inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(iii)(cc) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

7 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(iii)(dd) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[8] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(iv) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[9] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(v)(aa) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[10] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(v)(bb) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[11] Definition revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(vi)(aa) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[12] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(a)(vi)(bb) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 5(1) para. 10(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 10(1)-(5): England, Wales

Law In Force

11. Duty to consider representations

Before it determines an application or makes a regulator-initiated variation, the regulator must consider any representation—

(a) made pursuant to paragraph 6(1)(b), 8(2)(b) or 9(4)(c), or

(b) sent to it under paragraph 10(3)(b).

Commencement

Sch. 5(1) para. 11(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 11(a)-(b): England, Wales

Law In Force

12.— Duty to determine an application

(1) The regulator must grant or refuse a duly-made application.

(2) Except in the case of an application for the surrender of an environmental permit in whole, the regulator may grant an application subject to such conditions as it sees fit.

(3) But—

(a) variations of an environmental permit in relation to the grant of an application for variation, transfer in whole or in part, or partial surrender must be in consequence of the variation, transfer or partial surrender, as the case may be and
(b) if granting an application for partial transfer, the regulator must grant a new environmental permit to the transferee subject to the same conditions as the original permit, varied in consequence of the partial transfer.

Commencement

Sch. 5(1) para. 12(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 12(1)-(3)(b): England, Wales

Law In Force

13.— Identity and competence of the operator

(1) Subject to sub-paragraph (3), the regulator must refuse an application for the grant of an environmental permit or for the transfer in whole or in part of an environmental permit if it considers that, if the permit is granted or transferred, the requirements in sub-paragraph (2) will not be satisfied.

(2) The requirements are that the applicant for the grant of an environmental permit, or the proposed transferee, on the transfer of an environmental permit (in whole or in part), must—
(a) be the operator of the regulated facility, and
(b) operate the regulated facility in accordance with the environmental permit.

(3) The requirement in sub-paragraph (2)(b) does not apply to an applicant for the grant of an environmental permit authorising the carrying on of only a stand-alone water discharge activity, stand-alone groundwater activity or stand-alone flood risk activity.

Commencement

Sch. 5(1) para. 13(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 13(1)-(3): England, Wales

Law In Force

14.— Surrender applications

(1) The regulator must accept an application for the surrender of an environmental permit in whole or in part under regulation 25(2) if it is satisfied that the necessary measures have been taken—
(a) to avoid a pollution risk resulting from the operation of the regulated facility and, in the case of a permit authorising the carrying on of a flood risk activity (in whole or in part), to avoid any of the risks specified in sub-paragraph (3), and

(b) to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation.

(2) Sub-paragraph (1) does not apply to an application for the surrender of any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a radioactive substances activity at a nuclear site.

(3) The risks specified in this sub-paragraph are—

(a) risk of flooding;

(b) risk of harm to the environment;

(c) risk of detrimental impact on drainage.

Commencement

Sch. 5(1) para. 14(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 14(1)-(3)(c): England, Wales

Law In Force

15.— Time limits for determination

(1) If—

(a) the regulator has not determined an application within the relevant period, and

(b) the applicant serves a notice on the regulator which refers to this paragraph,

the application is deemed to have been refused on the day on which the notice is served.

(2) Sub-paragraph (1) does not apply—

(a) to an application for the grant of an environmental permit that, if granted, would authorise the carrying on of a radioactive substances activity at a nuclear site, or

(b) to an application for the transfer of an environmental permit where the permit authorises the carrying on of a radioactive substances activity at a nuclear site.

(3) In sub-paragraph (1) "the relevant period" means a period, calculated in accordance with paragraph 16, of—

(a) in the case of an application for the transfer of an environmental permit in whole or in part, 2 months,

(b) in the case of an application for the grant or variation, in whole or in part, of an environmental permit relating to a stand-alone flood risk activity only, 2 months,

(c) in a case where paragraph 6 applies, 4 months, or

(d) in any other case, 3 months,

or in any case, a longer period than the period in paragraphs (a) to (d), if it is agreed by the regulator and the applicant.

Commencement

Sch. 5(1) para. 15(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 15(1)-(3)(d): England, Wales

Law In Force

16.— Calculation of the relevant period

(1) This paragraph provides for the calculation of a period referred to in paragraph 15(3).

(2) The period starts—

(a) in the case of an application for the grant or variation of an environmental permit in relation to a Category A mining waste facility—

(i) on the day the regulator is notified by the fire and rescue authority of the matters referred to in paragraph 14(1) of Schedule 20, and for these purposes "fire and rescue authority" has the meaning given in paragraph 2 of that Schedule, or

(ii) if paragraph 10 of this Schedule applies, on the day mentioned in sub-paragraph (i) of this paragraph or, if the day on which the appropriate authority complies with paragraph 10(3) of this Schedule is later, on that day;

(b) if paragraph 10 of this Schedule applies and the application is not one covered by paragraph (a), on the day the appropriate authority complies with paragraph 10(3) of this Schedule;

(c) in all other cases, on the day the regulator receives a duly-made application.

(3) In calculating the period the following periods must be ignored—

(a) a period beginning with the service of a notice requiring further information under paragraph 4(1) to the receipt by the regulator of that information;

(b) a period for representations mentioned in paragraph 9(4)(c) to the extent that it does not overlap with a period for representations mentioned in paragraph 6(1)(c);

(c) a period of 20 days after the service of a notice under regulation 15(5);

(d) where regulation 15(6) applies, a period beginning with the day on which the regulator informs the applicant of the proposed condition and ending when the regulator is satisfied that the landowner has consented to that condition;

(e) a period during which national security or confidentiality is being considered in relation to the application, that is to say—

(i) any period during which a determination under regulation 47(3) or (7) or 50 is being considered (including any appeal), or

(ii) a period of 15 working days after the service of a notice under regulation 49(1);

(f) if the regulator informs the public in relation to a draft decision in accordance with paragraph 1(d) of Annex IV to the Industrial Emissions Directive, a period of 20 working days.

Commencement

Sch. 5(1) para. 16(1)-(3)(f): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 16(1)-(3)(f): England, Wales

Law In Force

17.— Notification of a determination or decision

(1) As soon as is reasonably practicable after it determines an application or decides to make a regulator-initiated variation, the regulator must comply with **[** sub-paragraphs (2) and (2A) **]** [1] .

(2) The regulator must—

(a) notify the applicant or, for a regulator-initiated variation, the operator of—

(i) its determination or decision,

(ii) the rights of appeal the applicant or operator has under regulation 31, and

(iii) the requirements relating to the exercise of those rights in paragraphs 2 and 3 of Schedule 6, and

(b) if paragraph 10 applies, notify the appropriate authority of the determination or decision.

[(2A) Where paragraph 10 applies to an application or regulator-initiated variation relating to an installation described in paragraph 10(5), the regulator must—

(a) notify the authorities of the member State consulted in accordance with paragraph 10(2A)(a) of the determination or decision, and

(b) provide those authorities with the information described in Article 24(2) of the Industrial Emission Directive.

] [2]

(3) In this paragraph, "determination" and "decision" include the reasons for the determination or decision.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(b)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[2] Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(10)(b)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 5(1) para. 17(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 17(1)-(3): England, Wales

Law In Force

18.— Date of effect of certain determinations and decisions

(1) This paragraph applies to—

(a) a determination by which the regulator grants an application which—

(i) varies an environmental permit in consequence of an application for variation, transfer in whole or in part, or partial surrender, or

(ii) grants a new environmental permit in consequence of an application for partial transfer, and

(b) a decision to make a regulator-initiated variation.

(2) The determination or decision must specify any variation and the date it is to take effect.

(3) If the regulator grants an application for the transfer of an environmental permit in whole or in part, the determination must specify the date agreed between the regulator and the applicant that the transfer is to take effect.

Commencement

Sch. 5(1) para. 18(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 18(1)-(3): England, Wales

Law In Force

19.— Form of certain determinations and decisions: consolidation of permits

(1) This paragraph applies to every determination and decision to which paragraph 18 applies.

(2) A determination or decision may comprise—

(a) a consolidated permit reflecting the variations, and

(b) a notice specifying the variations included in that consolidated permit.

(3) Only the variations specified are subject to the right of appeal in regulation 31(1)(b) or (c).

Commencement

Sch. 5(1) para. 19(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 19(1)-(3): England, Wales

Law In Force

20. Incidents and accidents: deemed condition of a permit

Every environmental permit in relation to a regulated facility to which Schedule 7, 13 or 14 applies is deemed to contain the following conditions, unless such conditions are included in the permit—

(a) in the event that the operation of a regulated facility gives rise to an incident or accident which significantly affects the environment, the operator of that regulated facility must immediately—

(i) inform the regulator,

(ii) take the measures necessary to limit the environmental consequences of such an incident or accident, and

(iii) take the measures necessary to prevent further possible incidents or accidents;

(b) in the event of a breach of any condition of a permit, the operator of a regulated facility must immediately—

(i) inform the regulator, and

(ii) take the measures necessary to ensure that compliance is restored within the shortest possible time;

(c) in the event of a breach of any condition of a permit which poses an immediate danger to human health or threatens to cause an immediate significant adverse effect on the environment, the operator of a regulated facility must immediately suspend the operation of the regulated facility or the relevant part of it until compliance with the condition of the permit has been restored.

Commencement

Sch. 5(1) para. 20(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(1) para. 20(a)-(c): England, Wales

PART 2

Compensation in relation to conditions affecting certain interests in land

Law In Force

1. Interpretation

In this Part—

"grantor" means a person who grants the operator rights pursuant to regulation 15(2);

"relevant interest" means an interest in land out of which rights have been granted pursuant to regulation 15(2);

"rights" means the rights granted by the grantor.

Commencement

Sch. 5(2) para. 1 definition of "grantor"- definition of "rights": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(2) para. 1 definition of "grantor"- definition of "rights": England, Wales

Law In Force

2. Entitlement to compensation

A grantor is entitled to be paid compensation under this Part by the operator.

Commencement

Sch. 5(2) para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(2) para. 2: England, Wales

Law In Force

3.— Loss and damage for which compensation is payable

(1) Subject to paragraph 6(3) and (5)(b), compensation is payable for loss and damage of the following descriptions—

(a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights;

(b) depreciation in the value of any other interest in land to which the grantor is entitled which results from the exercise of the rights;

(c) loss or damage, in relation to any relevant interest to which the grantor is entitled, which—

(i) is attributable to the grant of the rights or the exercise of them,

(ii) does not consist of depreciation in the value of that interest, and

(iii) is loss or damage for which the grantor would have been entitled to compensation by way of compensation for disturbance if the circumstances specified in sub-paragraph (2) applied;

(d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which—

(i) is not a relevant interest, and

(ii) results from the grant of the rights or the exercise of them;

(e) loss in respect of work carried out by or on behalf of the grantor which is rendered abortive by the grant of the rights or the exercise of them.

(2) For the purpose of sub-paragraph (1)(c)(iii), the circumstances are that the relevant interest was acquired compulsorily—

(a) under the Acquisition of Land Act 1981, and

(b) in pursuance of a notice to treat served on the date on which the rights were granted.

Commencement

Sch. 5(2) para. 3(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(2) para. 3(1)-(2)(b): England, Wales

Law In Force

4.— Date when entitlement to compensation arises

(1) An entitlement to compensation under this Part arises on the date of the grant of the rights.

(2) But if an appeal against the conditions of the environmental permit which rendered the grant of rights necessary is refused, the entitlement to compensation arises on the date the appeal is determined.

Commencement

Sch. 5(2) para. 4(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(2) para. 4(1)-(2): England, Wales

Law In Force

5.— Application for compensation

(1) An application for compensation under this Part must be made by the grantor—

(a) within 12 months after the date on which the entitlement to compensation arises, or

(b) within 6 months after the date on which the rights are first exercised.

(2) An application must be—

(a) made in writing,

(b) made to the operator to whom the rights were granted, and

(c) delivered at or sent by pre-paid post to the last known address for correspondence of that operator.

(3) The application must contain, or be accompanied by—

(a) a copy of the grant of rights in respect of which the grantor's entitlement arises and any plans attached to that grant,

(b) a description of the exact nature of any interest in land in respect of which compensation is applied for,

(c) a statement of the amount of compensation applied for—

(i) distinguishing the amounts applied for under each of paragraph 3(1)(a) to (e), and

(ii) showing how the amount applied for under each paragraph has been calculated, and

(d) if the date on which the entitlement to compensation arises is ascertained in accordance with paragraph 4(2), a copy of the notice of the final determination of the appeal.

Commencement

Sch. 5(2) para. 5(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(2) para. 5(1)-(3)(d): England, Wales

Law In Force

6.— Assessment of the amount to be paid by way of compensation

(1) The amount to be paid by way of compensation under this Part must be assessed in accordance with this paragraph.

(2) The rules set out in section 5 of the Land Compensation Act 1961[1] have effect for the purposes of this paragraph as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land, so far as applicable and subject to any necessary modifications.

(3) No account is to be taken of any enhancement of the value of an interest in land by reason of any building erected, work done, or improvement or alteration made on land in which the grantor is, or was at the time the building or other work was carried out, directly or indirectly concerned, if the work carried out—

(a) was not reasonably necessary, and

(b) was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of a loss under paragraph 3(1)(e), expenditure incurred in the preparation of plans or on other similar preparatory matters is to be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a mortgage—

(a) the compensation must be assessed as if the interest were not subject to the mortgage, and

(b) no compensation is payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage).

(6) Compensation must include an amount equal to the grantor's reasonable valuation and legal expenses incurred as a result of making the application under paragraph 5 to which the compensation relates.

Notes

[1] Section 5 was amended by paragraph 1 of Schedule 15, and Part 3 of Schedule 19, to the Planning and Compensation Act 1991 (c. 34), and by S.I. 2009/1307.

Commencement

Sch. 5(2) para. 6(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(2) para. 6(1)-(6): England, Wales

Law In Force

7.— Payment of compensation

(1) Compensation in respect of an interest which is subject to a mortgage must be paid—

(a) to the mortgagee, or

(b) if there is more than one mortgagee, to the first mortgagee,

and must, in either case, be applied by the mortgagee as if it were proceeds of sale.

(2) Amounts of compensation determined under this Part are payable—

(a) where the operator and either the grantor or mortgagee agree that a single payment is to be made on a specified date, on that date;

(b) where the operator and either the grantor or mortgagee agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment;

(c) in any other case, subject to any direction of the Upper Tribunal or the court, as soon as reasonably practicable after the amount of the compensation has been determined.

(3) Any question of the application of paragraph 6(3) or dispute as to the amount of compensation must be referred to and determined by the Upper Tribunal.

(4) In relation to the determination of such a question, section 4 of the Land Compensation Act 1961[1] applies as if the reference in section 4(A1) of that Act to section 1 of that Act[2] were a reference to sub-paragraph (3) of this paragraph.

Notes

[1] Section 4 was amended by S.I. 2009/1307.

[2] Section 1 was amended by S.I. 2009/1307.

Commencement

Sch. 5(2) para. 7(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(2) para. 7(1)-(4): England, Wales

Law In Force

8.— Interest payable on compensation

(1) Compensation payable under this Part carries interest at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 from the date specified in sub-paragraph (2) to payment.

(2) The date is—

(a) in the case of compensation payable under paragraph 3(1)(a) or (b), the date of depreciation;
(b) in the case of compensation payable under paragraph 3(1)(c), (d) or (e), the date on which the loss is sustained, the damage is done, or the injurious affection occurs, as the case may be;
(c) in the case of compensation payable under paragraph 6(6), the date on which the expenses become payable.

(3) If it appears to a person ("A") that A may become liable to pay to another person ("B") compensation under this Schedule or interest under this paragraph, on the written request of B, A may make one or more payments on account of such compensation or interest.

(4) A may recover the payment or excess if, after A makes a payment under sub-paragraph (3)—
(a) it is agreed or determined that A is not liable to pay compensation or interest, or
(b) by reason of any agreement or determination, the payment is shown to be excessive.

Commencement

Sch. 5(2) para. 8(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 5(2) para. 8(1)-(4)(b): England, Wales

SCHEDULE 6

Appeals to the appropriate authority

Regulation 31(12)

Law In Force

1. Interpretation

In this Schedule—
"appeal" means an appeal to the appropriate authority;
"appointed person" means the person appointed under paragraph 5;
"determination" includes the reasons for the determination.

Commencement

Sch. 6 para. 1 definition of "appeal"- definition of "determination": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 6 para. 1 definition of "appeal"- definition of "determination": England, Wales

Law In Force

2.— Making an appeal

(1) A person making an appeal must—

(a) send the appropriate authority written notice of the appeal and the documents specified in sub-paragraph (2), and

(b) at the same time send the regulator copies of the notice and documents.

(2) The documents are—

(a) a statement of the grounds of appeal,

(b) a copy of any relevant application,

(c) a copy of any relevant environmental permit,

(d) a copy of any relevant correspondence between the appellant and the regulator,

(e) a copy of any decision or notice which is the subject matter of the appeal, and

(f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be dealt with by way of written representations.

(3) An appellant may withdraw an appeal by notifying the appropriate authority in writing and must send a copy of that notification to the regulator.

Commencement

Sch. 6 para. 2(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 6 para. 2(1)-(3): England, Wales

Law In Force

3.— Time limit for making an appeal

(1) A notice of appeal must be given—

(a) in relation to an appeal against a revocation notice, before the revocation notice takes effect;

(b) in relation to the withdrawal of a duly-made application under paragraph 4(2) of Part 1 of Schedule 5, not later than 15 working days after the date of the further notice served under that paragraph;

(c) in relation to an enforcement notice, a regulator-initiated variation, suspension notice, mining waste facility closure notice, landfill closure notice, flood risk activity emergency works notice, flood risk activity notice of intent or flood risk activity remediation notice, not later than 2 months after the date of the variation or notice;

(d) in relation to a prohibition notice, not later than 21 days after the date of the notice;

(e) in any other case, not later than 6 months after the date of the decision or deemed decision.

(2) The appropriate authority may in a particular case allow notice of appeal to be given after the periods mentioned in sub-paragraph (1)(b) to (e) have expired.

Commencement

Sch. 6 para. 3(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 6 para. 3(1)-(2): England, Wales

Law In Force

4.— Notice to affected and interested persons

(1) The regulator must, within 10 working days after receipt of a copy of a notice of appeal, give notice of it to any person whom the regulator considers is affected by, is likely to be affected by, or has an interest in, the subject matter of the appeal.

(2) A notice must include—

(a) a description of the subject matter of the appeal, and

(b) a statement that representations in writing may be made to the appropriate authority within a period of 15 working days after the date of the notice.

(3) The regulator must notify the appropriate authority of the persons to whom, and the date on which, such a notice was sent, within 10 working days after sending it.

(4) The regulator must give notice of the withdrawal of an appeal to every person given such a notice.

Commencement

Sch. 6 para. 4(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 6 para. 4(1)-(4): England, Wales

Law In Force

5.— Hearing before an appointed person

(1) Before determining an appeal the appropriate authority may give the appellant and the regulator an opportunity of appearing before and being heard by a person appointed by the appropriate authority, and must do so in a case where a request is duly made by the appellant or the regulator to be so heard.

(2) If the appointed person so decides, a hearing may be held wholly or to any extent in private.

(3) The persons entitled to be heard at a hearing are—

(a) the appellant,

(b) the regulator, and

(c) a person who has made representations to the regulator in respect of the subject matter of the appeal within the period mentioned in paragraph 4(2)(b).

(4) The appointed person may permit other persons to be heard and such permission must not be unreasonably withheld.

(5) After the hearing, the appointed person must make a report in writing to the appropriate authority which must include the appointed person's—

(a) conclusions, and

(b) recommendations or reasons for not making recommendations.

(6) Subsections (2) to (5) of section 250 of the Local Government Act 1972[1] apply to hearings held under this paragraph by an appointed person as they apply to inquiries caused to be held under that section by a Minister with the following modifications—

(a) the substitution in subsection (2) for the reference to the person appointed to hold the inquiry with a reference to the appointed person;

(b) the substitution in subsection (4) for the references to the Minister causing the inquiry to be held with references to the appropriate authority;

(c) the substitution of the reference in that subsection to a local authority with a reference to the regulator;

(d) the substitution in subsection (5) for the reference to the Minister causing the inquiry to be held with a reference to the appropriate authority.

Notes

[1] Section 250 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), Part 3 of Schedule 12 to the Housing and Planning Act 1986 (c. 63) and the Statute Law Repeals Act 1989 (c. 43).

Commencement

Sch. 6 para. 5(1)-(6)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 6 para. 5(1)-(6)(d): England, Wales

Law In Force

6.— Notice of determination of an appeal

(1) The appropriate authority must give notice to the appellant of its determination and provide the appellant with a copy of the report mentioned in paragraph 5(5).

(2) At the same time the appropriate authority must send—

(a) a copy of the documents mentioned in sub-paragraph (1) to the regulator, and

(b) a copy of its determination to any person who made representations in respect of the subject matter of the appeal to the authority, or at any hearing.

Commencement

Sch. 6 para. 6(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 6 para. 6(1)-(2)(b): England, Wales

Law In Force

7.— Procedure following the quashing of a determination of an appropriate authority

(1) If a determination is quashed in proceedings before a court, the appropriate authority—

(a) must send to the persons notified of its determination under paragraph 6 a statement of the matters in relation to which further representations are invited,

(b) must give those persons the opportunity of making written representations in respect of those matters within 20 working days after the date of the statement, and

(c) may cause a hearing to be held or reopened.

(2) If a hearing is held or reopened under sub-paragraph (1)(c), paragraphs 5(2) to 5(6) apply as they apply to a hearing held under paragraph 5(1).

(3) Paragraph 6 applies to the redetermination of an appeal as it applies to the determination of that appeal.

Commencement

Sch. 6 para. 7(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 6 para. 7(1)-(3): England, Wales

SCHEDULE 7

Part A installations: Industrial Emissions Directive

Regulation 35(1)

Law In Force

1. Application

This Schedule applies to every Part A installation.

Commencement

Sch. 7 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 7 para. 1: England, Wales

Repealed

2. […][1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(11)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Law In Force

3. Exercise of regulator's functions: general

The regulator must exercise its functions under these Regulations for the purpose of achieving a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land.

Commencement

Sch. 7 para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 7 para. 3: England, Wales

Law In Force

4. Applications for the grant of an environmental permit

The regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 12 of the Industrial Emissions Directive.

Commencement

Sch. 7 para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 7 para. 4: England, Wales

Law In Force

5. Exercise of relevant functions

The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 5(1) and (3);
(b) Article 7;
(c) Article 8(2);
(d) Article 9;
(e) Article 11;
(f) Article 13(7);
(g) Article 14;

(h) Article 15[…][1] ;
(i) Article 16;
(j) Article 17;
(k) Article 18;
(l) Article 20(1) and (2);
(m) Article 22[…][2] [.] [3]
(n) […][3]

Notes

1 Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(11)(b)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(11)(b)(iii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(11)(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 7 para. 5(a)-(n): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 7 para. 5(a)-(n): England, Wales

Law In Force

6.— Developments in best available techniques

(1) The regulator must ensure that it is informed of developments in best available techniques and of the publication of any new or updated BAT conclusions and where appropriate must exercise its functions so as to encourage the application of emerging techniques, in particular those identified in BAT reference documents.

(2) In this paragraph—

"BAT conclusions" has the meaning given in Article 3(12) of the Industrial Emissions Directive;

"BAT reference document" has the meaning given in Article 3(11) of the Industrial Emissions Directive;

"best available techniques" has the meaning given in Article 3(10) of the Industrial Emissions Directive;

"emerging technique" has the meaning given in Article 3(14) of the Industrial Emissions Directive.

Commencement

Sch. 7 para. 6(1)-(2) definition of "emerging technique": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 7 para. 6(1)-(2) definition of "emerging technique": England, Wales

Law In Force

7. Review of environmental permits

The regulator must review an environmental permit in accordance with Article 21 of the Industrial Emissions Directive if any of the circumstances in that Article applies in relation to the Part A installation whose operation the permit authorises.

Commencement

Sch. 7 para. 7: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 7 para. 7: England, Wales

Law In Force

8. Public participation

The regulator must exercise its functions so as to meet the requirements of Article 24 of the Industrial Emissions Directive.

Commencement

Sch. 7 para. 8: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 7 para. 8: England, Wales

Law In Force

9. Inspections

When inspecting a regulated facility in accordance with regulation 34(2) the regulator must comply with Article 23 of the Industrial Emissions Directive.

Commencement

Sch. 7 para. 9: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 7 para. 9: England, Wales

SCHEDULE 8

Part B installations and Part B mobile plant etc.

Regulation 35(1)

Law In Force

1.— Application

(1) Subject to sub-paragraph (2), in England and Wales, this Schedule applies in relation to every Part B installation.

(2) Where installations are Part B installations solely because of the aggregation of the net rated thermal input of two or more appliances in accordance with paragraph 2 under the heading "Interpretation and application of Part B" in Section 1.1 of Part 2 of Schedule 1, only paragraph 4(1)(a) of this Schedule applies to those installations (in addition to the provisions in Schedule 24).

(3) In Wales only, this Schedule also applies in relation to every small waste incineration plant (in addition to the provisions in Schedule 13) and in relation to every solvent emission activity (in addition to the provisions in Schedule 14).

Commencement

Sch. 8 para. 1(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 8 para. 1(1)-(3): England, Wales

Law In Force

2. Interpretation

For the purposes of this Schedule—

> "best available techniques" means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing in principle the basis for emission limit values relevant to air pollution designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole, where—

(a) "techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;
(b) "available techniques" means those techniques developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, and which are reasonably accessible to the operator;
(c) "best" means most effective in achieving a high general level of protection of the environment as a whole;

"installation" means a Part B installation, Part B mobile plant, small waste incineration plant or solvent emission activity.

Commencement

Sch. 8 para. 2 definition of "best available techniques"- definition of "installation": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 8 para. 2 definition of "best available techniques"- definition of "installation": England, Wales

Law In Force

3. Exercise of regulator's functions: general

The regulator must exercise its functions under these Regulations for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

Commencement

Sch. 8 para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 8 para. 3: England, Wales

Law In Force

4.— Applications for the grant of an environmental permit

(1) The regulator must ensure that every application for the grant of an environmental permit includes the following information—

(a) the installation and its activities;
(b) the sources of emissions to air from the installation;
(c) the nature and quantities of foreseeable emissions into the air from the installation as well as identification of significant effects of those emissions on the environment;
(d) the proposed technology or other techniques for preventing, or where that is not possible, reducing emissions to air from the installation;
(e) further measures planned to ensure that the installation is operated in such a way that—

(i) all appropriate preventive measures are taken against pollution, in particular through the application of best available techniques, and

(ii) no significant pollution is caused;

(f) measures planned to monitor emissions into the air;

(g) the main alternatives, if any, to the techniques or measures required in paragraphs (d) to (f);

(h) a non-technical summary of the details referred to in paragraphs (a) to (g).

(2) Sub-paragraph (1)(d) does not apply to the extent that the application relates to the burning of waste oil in an appliance with a net rated thermal input of less than 0.4 megawatts at a Part B installation.

(3) In the case of a new installation or a substantial change where Article 4 of Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment[1] applies, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 or 7 of that Directive shall be taken into consideration by the regulator for the purposes of granting the environmental permit.

[(4) In sub-paragraph (3), a reference to a numbered Article of Directive 2011/92/EU[3] is to be construed as a reference to the EU-derived domestic legislation which transposed that Article in respect of England and Wales[4] . **]** [2]

Notes

1 OJ No L 26, 28.1.2012, p 1, as last amended by Directive 2014/52/EU (OJ No L 124, 25.4.2014, p 1).

2 Added by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(12)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 OJ No L 26, 28.1.2012, p 1, as amended by Directive 2014/52/EU of the European Parliament and of the Council (OJ No L 124, 25.4.2014, p 1).

4 See for example S.I. 2012/698, 2014/557, 615, 2015/398, 446, 660, 810, 1937 (W 291), 2017/280 (W 74), 407, 565 (W 134), 567 (W 136), 571, 572, 580, 582, 583, 585, 588, 592, 593, 1070, 2018/695, 798, 834.

Commencement

Sch. 8 para. 4(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 8 para. 4(1)-(4): England, Wales

Law In Force

5.— Exercise of relevant functions

(1) The regulator must, for the purpose of preventing or, where that is not practicable, reducing emissions into the air, exercise its relevant functions in relation to the installations to which this Schedule applies—

(a) so as to ensure that they are operated in such a way that—

(i) appropriate preventive measures are taken against air pollution, in particular through the application of best available techniques;

(ii) no significant air pollution is caused;

(b) where an environmental quality standard requires stricter conditions than those achievable by the use of best available techniques, additional measures are required by the permit, without prejudice to other measures which might be taken to comply with environmental quality standards;

(c) permits include emission limit values, which may if appropriate be supplemented or replaced by equivalent parameters or technical measures, for polluting substances likely to be emitted into the air from the installation concerned in significant quantities **[** . **]** [1]

(d) **[…]**[1]

(2) The regulator must ensure that emission limit values or equivalent parameters or technical measures are based on best available techniques without prescribing the use of any technique or specific technology, but taking into account the technical characteristics of the installation, including (except in the case of mobile plant) its geographical location and the local environmental conditions.

(3) In this paragraph "substance" means any chemical element and its compounds and any biological entity or micro-organism, with the exception of the following substances—

(a) radioactive substances as defined in **[** Article 4 **]** [2] of the Basic Safety Standards Directive;

(b) genetically modified micro-organisms as defined in Article 2(b) of Directive 2009/41/EC of the European Parliament and of the Council on the contained use of genetically modified micro-organisms[3] ;

(c) genetically modified organisms as defined in point 2 of Article 2 of Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms[4] .

Notes

1 Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(12)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 reg.6 (May 2, 2018)

3 OJ No L 125, 21.5.2009, p 75.

4 OJ No L 106, 17.4.2001, p 1, as last amended by Directive (EU) 2015/412 (OJ No L 68, 13.3.2015, p 1).

Commencement

Sch. 8 para. 5(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 8 para. 5(1)-(3)(c): England, Wales

Law In Force

6.— Change in operation

(1) Operators holding environmental permits for installations to which this Schedule applies must notify the regulator of any substantial change in the operation of that installation.

(2) Where there is a substantial change in the operation of an installation, the regulator must ensure that the environmental permit is reviewed and, if necessary, updated.

Commencement

Sch. 8 para. 6(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 8 para. 6(1)-(2): England, Wales

Law In Force

7. Review of permits

The regulator must review an environmental permit where—

(a) the air pollution caused by the installation is of such significance that the existing emission limit values of the permit need to be revised or new values need to be included in the permit,

(b) substantial changes in best available techniques make it possible to reduce emissions significantly without imposing excessive costs,

(c) the operational safety of the process or activity requires other techniques to be used, or

(d) new legislation necessitates a review.

Commencement

Sch. 8 para. 7(a)-(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 8 para. 7(a)-(d): England, Wales

Law In Force

8. Developments in best available techniques

The regulator must ensure that it is informed of developments in best available techniques.

Commencement

Sch. 8 para. 8: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 8 para. 8: England, Wales

SCHEDULE 9

Waste operations and materials facilities

Regulation 35(1)

PART 1

Waste operations

Law In Force

1. Application

This Schedule applies in relation to every waste operation.

Commencement

Sch. 9(1) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(1) para. 1: England, Wales

Law In Force

2. Interpretation

In this Schedule—

"disposal" has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly;

"recovery" has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly.

Commencement

Sch. 9(1) para. 2 definition of "disposal"- definition of "recovery": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(1) para. 2 definition of "disposal"- definition of "recovery": England, Wales

Law In Force

3.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions—

(a) for the purposes of ensuring that—

(i) the waste hierarchy referred to in Article 4 of the Waste Framework Directive is applied to the generation of waste by a waste operation;

(ii) waste generated by a waste operation is treated in accordance with Article 4 of the Waste Framework Directive;

(b) for the purposes of [ensuring the objectives of Article 13 of the Waste Framework Directive are met][1], but not in respect of nuisances and hazards arising from traffic beyond the site of a waste operation;

(c) so as to ensure that the requirements in the second paragraph of Article 23(1) of the Waste Framework Directive are met;

(d) so as to ensure compliance with the following Articles of the Waste Framework Directive—

(i) Article 18(2)(b) and (c);

(ii) Article 23(3);

(iii) Article 23(4);

(iv) Article 35(1).

(2) But the following duties take effect in relation to an environmental permit which was in force on the date of coming into force of the Waste (England and Wales) Regulations 2011[2] on the first review of the permit by the regulator (under regulation 34(1)) after that date—

(a) the duty in sub-paragraph (1)(a), (d)(i) and (d)(iii);

(b) the duty in sub-paragraph (1)(c), to the extent that it is imposed in relation to Article 23(1)(e) and (f).

Notes

1 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(13) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Amended by S. I. 2011/600 (W. 88), 2043, 2012/767, 1889, 2013/141, 755 (W. 90), 2014/656, 2015/483, 1360, 1417 (W. 141), 1640, 2016/58 (W. 28), 691 (W. 189) and 738.

Commencement

Sch. 9(1) para. 3(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(1) para. 3(1)-(2)(b): England, Wales

PART 2

Materials facilities

CHAPTER 1

Law In Force

1.— Assessment and notification

(1) At the start of each reporting period, the operator of a materials facility must assess the amount of **[…]**[1] waste material that facility is likely to receive during the relevant year by having regard to—

(a) the amount of **[…]**[1] waste material received at that facility during the period of 12 months immediately preceding the start of that reporting period, and

(b) the anticipated amount of **[…]**[1] waste material that will be received by that facility during the relevant year.

(2) The operator must notify the regulator **[** in writing **]**[2] before the end of the reporting period if the assessment undertaken at the start of that period indicates that the materials facility is likely to receive a minimum of 1,000 tonnes of **[…]**[1] waste material during the relevant year.

(3) Where the operator has given a notification under sub-paragraph (2), no further notification is required under that sub-paragraph in relation to any subsequent assessment, for so long as that notification is not withdrawn.

(4) The operator may withdraw, in writing, a notification given under sub-paragraph (2) at any time if the operator considers that the materials facility is not likely to receive a minimum of 1,000 tonnes of **[…]**[1] waste material during the relevant year.

(5) In this paragraph, "relevant year" means the period of 12 months that commences on the first day of a reporting period.

Notes

1 Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(2) (October 1, 2024)

2 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(3) (October 1, 2024)

Commencement

Sch. 9(2)(1) para. 1(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(2)(1) para. 1(1)-(5): England, Wales

Law In Force

2.— Interpretation

(1) In this **[** Part **]**[1] —

["drink" means—

(a) water suitable for human consumption,

(b) a beverage suitable for human consumption,

(c) a sports drink suitable for human consumption, or

(d) a liquid which constitutes a beverage or sports drink suitable for human consumption if it is—

(i) diluted,

(ii) combined with crushed ice, or processed so as to create crushed ice,

(iii) combined with carbon dioxide, or

(iv) prepared by way of a process that involves any combination of the processes mentioned in paragraphs (i) to (iii) and includes, for example, fruit squash or fruit cordial;

"drink container" means a bottle or can in which a drink is supplied and which—

(a) is made wholly or mainly from polyethelene terephthalate (PET) plastic, steel or aluminium,

(b) has a capacity of at least 50 millilitres but no more than three litres of liquid,

(c) when it is filled for supply, is securely closed, and

(d) is designed to be used only once, or for a short period of time, before being discarded,

together with any label applied to it and its lid or other closures;

"fibre-based composite material" means packaging material which is made of paperboard or paper fibres, laminated with plastic, and which may also have layers of other materials, to form a single unit that cannot be separated by hand; **]** [2]

“material particles” means—

(a) for specified output material that is made up in largest proportion of glass material, particles of that material that measure less than 13 millimetres along their longest dimension, and

(b) in relation to all other types of specified output material and for **[…]**[3] waste material, particles of material measuring less than 55 millimetres along their longest dimension;

“materials facility” means , subject to sub-paragraph (2), a regulated facility or part of a regulated facility that receives **[…]**[3] waste material **[** in order to—

(a) separate it into specified output material, or

(b) consolidate it into bulk quantities (whether as a first point of consolidation for such waste or following the first consolidation of bulk quantities transferred from other suppliers),

for the purpose of selling it, or transferring it to other facilities or persons to enable that material to be prepared for re-use or recycling **]** [4] ;

(a)-(b) **[…]**[5]

“non-recyclable material” means waste material that is not capable of being recycled;

“non-target material” means material that is capable of being recycled but is not a target material;

["packaging" means all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer, including non-returnable items used for the same purposes, but only where the products are—

(a) primary packaging, which is packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;

(b) secondary packaging, which is packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is

supplied as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting the product's characteristics;

(c) tertiary packaging, which is packaging conceived so as to facilitate handling and transport of a number of sales units or secondary packaging in order to prevent damage from physical handling and transport damage and for these purposes tertiary packaging does not include road, rail, ship and air containers;

(d) shipment packaging, which is packaging in addition to primary packaging on items which are sold online or by mail order which are either delivered direct to the purchaser or collected by the purchaser from a shop or other collection point after they have been purchased;

] [6]

"reporting period" means any of the following periods—

(a) 1st January to 31st March;

(b) 1st April to 30th June;

(c) 1st July to 30th September;

(d) 1st October to 31st December;

"specified output material" means a batch of material (whether or not waste) that is—

(a) produced from a separating process for **[…]**[3] waste material, and

[(b) made up of one or more of the following kinds of material—

(i) glass;

(ii) metal;

(iii) paper;

(iv) card;

(v) plastic;

(vi) fibre-based composite material;

] [7]

["sports drink" means a drink which is advertised or marketed as a product to enhance physical performance, accelerate recovery after exercise or build bulk, or other similar drink; **]** [8]

"target material" means **[** material (whether of one kind or more) **]** [9] that is identified by the operator of a materials facility as destined **[** (whether by that facility or by other facilities or persons) **]** [10] to be separated out from **[…]**[3] waste material **[** or consolidated **]** [11] in order to produce bulk quantities of that identified material **[** ; **]** [12]

["waste material" means waste that—

(a) is household waste, or originates from a source other than household waste but is similar to household waste in terms of its nature or composition,

(b) has been separately collected (whether as a single kind of material or two or more kinds of material mixed together) for the primary purpose of preparing it for re-use or recycling, and

(c) consists (whether wholly or in part) of any of the following kinds of material—

(i) glass;

(ii) metal;

(iii) paper;

(iv) card;

(v) plastic;

(vi) fibre-based composite material.

] [12]

(2) In this [Part] [13] —

[(a) any reference to a "materials facility" excludes a facility or part of a facility—

(i) at which all the waste material received during a reporting period is attributable exclusively to a single supplier, unless the waste material so received is separated into specified output material at that facility;

(ii) that is provided pursuant to arrangements made under section 51(1)(b) of the 1990 Act by an authority that is a waste disposal authority within the meaning of section 30(2) of that Act[15] ;

(iii) that undertakes the processing or sorting of WEEE, waste batteries or accumulators;

] [14]

(b) references to ["recycling",] [16] "recycled" or "recyclable" are to be construed in accordance with the meaning of "recycling" given in Article 3(17) of the Waste Framework Directive.

[(3) For the purposes of this Part, in relation to a batch of waste material received at a materials facility—

(a) where that batch comprises material collected pursuant to arrangements made under section 45(1)(a) or (b) of the 1990 Act by an authority that is a waste collection authority within the meaning of section 30(3) of that Act[18] , that authority is the supplier, except in a case falling within paragraph (b);

(b) where that batch has been transferred from another materials facility, the operator of the materials facility from which that material was transferred is the supplier;

(c) in a case not falling within paragraph (a) or (b), the person who collected the material or, if that person is not known, the person responsible for delivering it to the materials facility is the supplier.

] [17]

Notes

1 Word substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(a) (October 1, 2024)

2 Definitions inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(b) (October 1, 2024)

3 Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(2) (October 1, 2024)

4 Words and sub-para. (a) and (b) substituted for words by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(c) (October 1, 2024)

5 Definition revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(d) (October 1, 2024)

6 Definition substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(e) (October 1, 2024)

7 Substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(f) (October 1, 2024)

8 Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(g) (October 1, 2024)

9 Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(h)(i) (October 1, 2024)

[10] Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(h)(ii) (October 1, 2024)

[11] Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(h)(iii) (October 1, 2024)

[12] Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(4)(i) (October 1, 2024)

[13] Word substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(5)(a) (October 1, 2024)

[14] Substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(5)(b) (October 1, 2024)

[15] Section 30(2)(f) was substituted by paragraph 17(2) of Schedule 9 to the Local Government (Wales) Act 1994 (c. 19).

[16] Word inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(5)(c) (October 1, 2024)

[17] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(6) (October 1, 2024)

[18] Section 30(3) was amended by paragraph 17(3) of Schedule 9 to the Local Government (Wales) Act 1994. There are other amendments but none is relevant.

Commencement

Sch. 9(2)(1) para. 2(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(2)(1) para. 2(1)-(3)(c): England, Wales

Law In Force

3.— Specification of conditions of environmental permits and exercise of relevant functions

(1) An environmental permit relating to a materials facility is subject to the condition that the operator of that facility must comply with paragraph 1(1) and (2) of this Part.

(2) Where the operator of a materials facility has given notification under paragraph 1(2) of this Part, an environmental permit relating to that facility is subject to the condition that the operator must comply with Chapter 2 of this Part for so long as that notification has not been withdrawn under paragraph 1(4) of this Part.

(3) The regulator must exercise its relevant functions in relation to a materials facility to ensure compliance with Chapter 2 of this Part.

(4) In the event of any inconsistency between the requirements imposed by virtue of Chapter 2 of this Part and any other condition contained in any environmental permit relating to a materials facility, the requirements imposed by Chapter 2 of this Part prevail.

Commencement

Sch. 9(2)(1) para. 3(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(2)(1) para. 3(1)-(4): England, Wales

CHAPTER 2

Measurement and reporting requirements for materials facilities

Law In Force

4.— Input material

(1) The operator of a materials facility must measure the total weight in tonnes of **[…]**[1] waste material received at that facility, from each supplier, during each reporting period.

[(2) The operator of a materials facility must take samples of the waste material received at that facility, from each supplier, during each reporting period, except where that material is identified and kept apart as material which is to be transferred by the operator to another materials facility or person for the purpose of enabling it to be prepared for re-use or recycling, and measure the composition of those samples. **]** [2]

(3) For the purposes of sub-paragraph (2), one sample must be taken for every **[** 75 **]** [3] tonnes of **[…]**[1] waste material received at the materials facility from each supplier.

(4) The total weight of all the samples taken for the purposes of sub-paragraph (3) must provide an average weight of 60kg or more per sample, and each sample taken must not weigh less than 55kg.

(5) For the purposes of sub-paragraph (2), measuring the composition of a sample taken means identifying the materials comprising that sample by reference to—

(a) the types of target material, non-target material and non-recyclable material that is contained in the sample, **[…]**[4]

[(aa) subject to sub-paragraph (6A), the type of packaging that is contained in each type of target material, non-target material and non-recyclable material identified in that sample, including by reference to drink containers as a type of packaging, and **]** [4]

(b) the weight in kilograms of each type of target material, non-target material and non-recyclable material **[** and each type of packaging **]** [5] that is so identified.

(6) **[** The **]** [6] material that is identified in a sample taken for the purposes of sub-paragraph (2) must, as a minimum, be separately identified by reference to the following **[…]**[7] —

[(a) glass;

(b) aluminium;

(c) steel;

(d) paper;

(e) card;
(f) plastic bottles;
(g) plastic pots, tubs and trays;
(h) film or other flexible plastic;
(i) other plastic (not falling within paragraphs (f) to (h));
(j) fibre-based composite material.] [8]

[(6A) Any glass that is identified in a sample taken for the purposes of sub-paragraph (2) must be separately identified and weighed as a type of packaging in accordance with sub-paragraph (5)(aa) only where the operator is given written notice by the regulator of the requirement to do so, and any such notice—

(a) must be given at least four weeks prior to the commencement of the reporting period in respect of which the measurements are to be taken, and
(b) must specify the minimum number of samples for each supplier in respect of which the measurements are required.

] [9]

(7) If the sample taken under sub-paragraph (2) contains material particles, they are deemed to comprise the proportions of [the types of target materials, non-target materials, non-recyclable materials and packaging (including glass packaging where notice has been given under paragraph (6A))] [10] already identified as making up the other contents of that sample, and the weight of the material particles must be apportioned according to those proportions for that particular sample.

[(8) For the purposes of this paragraph, where a batch of waste material received at a materials facility comprises material from more than one supplier, and the proportion of that batch attributable to a particular supplier cannot reasonably be ascertained, an estimate of the proportion is sufficient.

(9) The operator of a materials facility must ensure that the composition of each sample taken for the purposes of this paragraph is representative of the materials comprising the waste material from which it is taken.] [11]

Notes

[1] Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(2) (October 1, 2024)

[2] Substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(a) (October 1, 2024)

[3] Word substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(b) (October 1, 2024)

[4] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(c)(i) (October 1, 2024)

[5] Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(c)(ii) (October 1, 2024)

[6] Word substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(d)(i)(aa) (October 1, 2024)

[7] Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(d)(i)(bb) (October 1, 2024)

[8] Sch.9 Pt 2 para.4(6)(a)-(j) substituted for Sch.9 Pt 2 para.4(6)(a)-(d) by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(d)(ii) (October 1, 2024)

[9] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(e) (October 1, 2024)

[10] Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(f) (October 1, 2024)

[11] Sch.9 Pt 2 para.4(8) and (9) substituted for Sch.9 Pt 2 para.4(8) by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(7)(g) (October 1, 2024)

Commencement

Sch. 9(2)(2) para. 4(1)-(8)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(2)(2) para. 4(1)-(9): England, Wales

Law In Force

5.— Output material

(1) Apart from the **[…]**[1] waste material mentioned in sub-paragraph (2) and the specified output material mentioned in sub-paragraph (3), the operator of a materials facility must measure the total weight in tonnes of all other waste material that leaves the facility in each reporting period.

[(2) The operator of a materials facility must measure the total weight in tonnes of all waste material that leaves the facility in each reporting period that has been identified and kept apart as material to be transferred by the operator to another materials facility or person for the purpose of enabling that material to be prepared for re-use or recycling. **]** [2]

(3) The operator of a materials facility must measure the total weight in tonnes of specified output material that leaves the facility in each reporting period.

(4) The operator of a materials facility must take samples of the specified output material produced at that facility in a reporting period and measure the composition of those samples.

(5) For the purpose of fulfilling the requirements in sub-paragraphs (3) and (4), the specified output material must, as a minimum, be identified by reference to the grade of glass, **[** paper, card, aluminium, steel, plastic or fibre-based composite **]** [3] material making up each batch of specified output material.

(6) For the purpose of sub-paragraph (4), measuring the composition of a sample taken by the operator means identifying the materials comprising that sample, by reference to—

(a) the type of target material, non-target material and non-recyclable material that is contained in the sample, **[…]**[4]

[(aa) subject to sub-paragraph (6A), the type of packaging that is contained in each type of target material, non-target material and non-recyclable material identified in that sample, including by reference to drink containers as a type of packaging, and **]** [4]

(b) the weight in kilograms of each type of target material, non-target material and non-recyclable material **[** and each type of packaging **]** [5] that is so identified.

[(6A) Any glass that is identified in measuring the composition of a sample for the purpose of sub-paragraph (4) must be separately identified and weighed as a type of packaging in accordance with sub-paragraph (6)(aa) only where the operator is given written notice by the regulator of the requirement to do so, and any such notice—

(a) must be given at least four weeks prior to the commencement of the reporting period in respect of which the measurements are to be taken, and

(b) must specify the minimum number of samples for each supplier in respect of which the measurements are required.

] [6]

(7) [Subject to sub-paragraph (7A)] [7] samples mentioned in sub-paragraph (4) must be taken at a minimum frequency of once per the amount in tonnes that is specified in the second column of the following table, in relation to the type of [...][8] material that is mentioned in the first column—

[Material] [8]	*Amount*
Glass	50 tonnes
Paper	60 tonnes
[Card	60 tonnes][9]
Metal [(comprising aluminium, steel or both)] [10]	20 tonnes
Plastic	15 tonnes
[Fibre-based composite material	60 tonnes][11]

[(7A) Where a sample contains more than one type of material, the applicable minimum frequency is to be determined by reference to the lowest figure in the second column of the table that is specified in relation to a material contained in the sample.] [12]

[(8) The minimum weight of any sample taken for the purposes of sub-paragraph (4) is—

(a) 10kg in relation to glass,

(b) 50kg in relation to paper,

(c) 50kg in relation to card,

(d) 10kg in relation to metal (comprising aluminium, steel or both),

(e) 20kg in relation to plastic, and

(f) 50kg in relation to fibre-based composite material,

and for these purposes any sample that contains more than one type of material is to be treated as though it comprised only the material to which the lowest sampling frequency applies as determined under sub-paragraph (7A).

] [13]

(9) For the purposes of sub-paragraph (5), the grade of a material means a description of that kind of material by reference to its particular material specification.

(10) If the sample taken under sub-paragraph (4) contains material particles, they are deemed to comprise the proportions of [the types of target materials, non-target materials, non-recyclable materials and packaging (including glass packaging where notice has been given under sub-paragraph (6A))] [14] already identified as making up the other contents of that sample, and the weight of the material particles must be apportioned according to those proportions for that particular sample.

[(11) The operator of a materials facility must ensure that the composition of each sample taken for the purposes of this paragraph is representative of the materials comprising the batch of specified output material from which it is taken.] [15]

Notes

[1] Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(2) (October 1, 2024)

[2] Substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(a) (October 1, 2024)

[3] Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(b) (October 1, 2024)

[4] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(c)(i) (October 1, 2024)

[5] Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(c)(ii) (October 1, 2024)

[6] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(d) (October 1, 2024)

[7] Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(e)(i) (October 1, 2024)

[8] Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(e)(ii) (October 1, 2024)

[9] Entry inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(e)(iii) (October 1, 2024)

[10] Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(e)(iv) (October 1, 2024)

[11] Entry inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(e)(v) (October 1, 2024)

[12] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(f) (October 1, 2024)

[13] Substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(g) (October 1, 2024)

[14] Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(h) (October 1, 2024)

[15] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(8)(i) (October 1, 2024)

Commencement

Sch. 9(2)(2) para. 5(1)-(10): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(2)(2) para. 5(1)-(11): England, Wales

Law In Force

6.— Records

(1) The operator of a materials facility must record the following information **[** obtained for the purposes of paragraphs 4 and 5 **]** [1] —

(a) the measurements taken under paragraph 4(1) **[** and, for each batch of material of which the total weight is comprised— **]** [2]

[(i) the date the batch was received, and

(ii) the name and address of the supplier (or of each supplier) for the batch concerned;] [2]

[(b) details of all the samples and measurements taken for the purposes of paragraph 4(2) including the weight in kilograms of each sample and its composition and the date the sample was taken;] [3]

[(ba) details of the methodology used in each case to ensure that the composition of the sample is representative for the purposes of paragraph 4(9);] [4]

(c) the measurements taken under paragraph 5(1) and details of where the other waste material that leaves the facility in each reporting period is sent [and of the date it is sent] [5] ;

(d) the measurements taken under paragraph 5(2) and details of where the [...][6] waste material that leaves the facility in each reporting period is sent [and of the date it is sent] [5] ;

(e) the measurements taken under paragraph 5(3) and details of where the specified output material that leaves the facility in each reporting period is sent [and of the date it is sent] [5] ;

[(f) details of all the samples and measurements taken for the purposes of paragraph 5(4) including the weight in kilograms of each sample and its composition, the date the sample was taken and any other details identifying the batch of specified output material from which it was taken;] [7]

(g) details of the amount in tonnes of specified output material that is produced by the materials facility in a reporting period, by reference to the grade of glass, [aluminium, steel] [8] , paper [, card] [9] and plastic [...][10] material that makes up that batch of material [;] [11]

[(h) details of the methodology used in each case to ensure that the composition of the sample is representative for the purposes of paragraph 5(11).] [11]

(2) The information recorded under sub-paragraph (1) must—

(a) be retained by the operator of a materials facility for a minimum of 4 years from the date that it is first recorded [in the case of information recorded before 1st October 2024 and for a minimum of 7 years from the date that it is first recorded in the case of information recorded on or after 1st October 2024] [12] , and

(b) be produced for inspection by the regulator if required during [the period in which the information concerned is required to be retained] [13] .

Notes

1 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(a) (October 1, 2024)

2 Words and sub-para. (i) and (ii) inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(b) (October 1, 2024)

3 Substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(c) (October 1, 2024)

4 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(d) (October 1, 2024)

5 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(e) (October 1, 2024)

6 Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(2) (October 1, 2024)

[7] Substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(f) (October 1, 2024)

[8] Word substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(g)(i) (October 1, 2024)

[9] Word inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(g)(ii) (October 1, 2024)

[10] Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(g)(iii) (October 1, 2024)

[11] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(9)(h) (October 1, 2024)

[12] Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(10)(a) (October 1, 2024)

[13] Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(10)(b) (October 1, 2024)

Commencement

Sch. 9(2)(2) para. 6(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(2)(2) para. 6(1)-(2)(b): England, Wales

Law In Force

7.— Reports to the regulator

(1) The operator of a materials facility must provide a report to the regulator that includes the information set out in sub-paragraphs (3) and (4).

(2) The report mentioned in sub-paragraph (1) must be—

(a) produced in electronic format **[** and in the form specified by the regulator **]** [1] , and

(b) submitted to the regulator in respect of a reporting period within 1 month of the expiry of that period.

(3) The following information must be provided for all **[…]**[2] waste material that is received by the materials facility during a reporting period—

(a) the measurements taken under paragraph 4(1) **[** and the details for each batch of material recorded in accordance with paragraph 6(1)(a) **]** [3] ;

(b) the total number of all samples taken for each supplier under paragraph 4(2);

(c) the total weight in kilograms of all the samples taken for each supplier under paragraph 4(2) **[** and the details for those samples as recorded in accordance with paragraph 6(1)(b) **]** [4] **[** . **]** [5]

(d)-(f) **[…]**[5]

(4) The following information must be provided in respect of **[…]**[6] material that leaves the materials facility during a reporting period—

(a) the measurements taken under paragraph 5(1) and details of where the other waste material is sent **[** recorded in accordance with paragraph 6(1)(c) **]** [7] ;

(b) the measurements taken under paragraph 5(2) and details of where the **[…]**[2] waste material is sent **[** recorded in accordance with paragraph 6(1)(d) **]** [8] ;

(c) the measurements taken under paragraph 5(3) **[** and details of where the specified output material is sent recorded in accordance with paragraph 6(1)(e) **]** [9];
(d) the total number of all samples taken under paragraph 5(4);
(e) the total weight in kilograms of all the samples that are taken under paragraph 5(4) **[**, with the details for those samples recorded in accordance with paragraph 6(1)(f) **]** [10] **[** . **]** [11]
(f)-(h) **[…]**[11]

(5) **[…]**[12]

Notes

1 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(a) (October 1, 2024)

2 Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(2) (October 1, 2024)

3 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(b)(i) (October 1, 2024)

4 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(b)(ii) (October 1, 2024)

5 Revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(b)(iii) (October 1, 2024)

6 Words revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(c)(i) (October 1, 2024)

7 Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(c)(ii) (October 1, 2024)

8 Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(c)(iii) (October 1, 2024)

9 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(c)(iv) (October 1, 2024)

10 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(c)(v) (October 1, 2024)

11 Revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(c)(vi) (October 1, 2024)

12 Revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(11)(d) (October 1, 2024)

Commencement

Sch. 9(2)(2) para. 7(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 9(2)(2) para. 7(1)-(5): England, Wales

Law In Force

[8.— Disclosure of information by the regulator

The regulator may share any information obtained from the operator of a materials facility under this Part with—

(a) a person who is appointed, by virtue of regulations made under Part 1 of Schedule 5 to the Environment Act 2021, as an administrator of a scheme for producer responsibility for disposal costs ("the administrator"), and

(b) any other person who is exercising functions on that administrator's behalf,

for the purpose of enabling the exercise of functions conferred on the administrator under those regulations.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2023/1156 reg.2(12) (October 1, 2024)

Extent

Sch. 9(2)(2) para. 8(a)-(b): England, Wales

[PART 3

Waste operations: management and technical competence conditions

] [1]

Notes

[1] Added by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(5) (April 7, 2019)

Law In Force

[1.— Written management system conditions

(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.
] [1]

Notes

[1] Added by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(5) (April 7, 2019)

Extent

Sch. 9(3) para. 1(1)-(4): England, Wales

Law In Force

[2.— Technical competence: notification condition

(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.

] [1]

Notes

[1] Added by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(5) (April 7, 2019)

[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.

Extent

Sch. 9(3) para. 2(1)-(10): England, Wales

[Part 4

Waste separately collected for preparing for re-use and recycling not to be incinerated

] [1]

Notes

[1] Added by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(5) (October 1, 2020)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales

Law In Force

England

[1.—

(1) Every environmental permit which authorises a small waste incineration plant, a waste co-incineration plant, or a waste incineration plant is deemed to contain the following condition, unless such a condition to the same effect is included in the permit.

(2) The condition is that the operator must not accept—

(a) any waste paper, metal, plastic or glass for incineration if that waste has been separately collected for the purpose of preparing for re-use or recycling; or

(b) any waste for incineration that results from the treatment of waste referred to in paragraph (a), unless—

(i) the relevant permit authorises the operator to accept that type of waste for incineration; and

(ii) incineration of that waste delivers the best environmental outcome in accordance with regulation 12 of the Waste (England and Wales) Regulations 2011.

] [1]

Notes

[1] Added by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(5) (October 1, 2020)

Wales

[1.—

(1) Every environmental permit which authorises a small waste incineration plant, a waste co-incineration plant, or a waste incineration plant is deemed to contain the following condition, unless such a condition to the same effect is included in the permit.

(2) The condition is that the operator must not accept—

(a) in Wales, any waste paper, card, cartons, metal, plastic, glass, food, small electrical and electronic equipment or unsold textiles for incineration if that waste has been separately collected for the purpose of preparing for re-use or recycling; or

(b) any waste for incineration that results from the treatment of waste referred to in paragraph (a), unless—

(i) the relevant permit authorises the operator to accept that type of waste for incineration; and

(ii) incineration of that waste delivers the best environmental outcome in accordance with regulation 12 of the Waste (England and Wales) Regulations 2011.

[(3) For the purposes of this paragraph—

"cartons" means fibre-based composite packaging, being packaging material which is made of paperboard or paper fibres, laminated with low density polythene or polypropylene plastic, and which may also have layers of other materials, to form a single unit that cannot be separated by hand;

"electrical and electronic equipment" means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1,000 volts for alternating current and 1,500 volts for direct current;

"small electrical and electronic equipment" means electrical and electronic equipment falling within one of the categories of EEE listed in Schedule 3 to the Waste Electrical and Electronic Equipment Regulations 2013[3] , excluding items with any external dimension of more than 50 centimetres;

"unsold" means an unused consumer product, in a factory, retail premises, wholesaler, warehouse or other premises, that has not been sold to a consumer or has been sold and returned by a consumer.

] [2]

] [1]

Notes

1 Words substituted by Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023/1289 Pt 3 reg.4(2)(a) (April 6, 2024)

2 Added by Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023/1289 Pt 3 reg.4(2)(b) (April 6, 2024)

3 S.I. 2013/3113, amended by S.I. 2018/1214; there are other amending instruments but none is relevant.

Extent

Sch. 9(4) para. 1(1)-(2)(b)(ii): England, Wales

SCHEDULE 10

Landfill

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to every landfill except a landfill which finally ceased to accept waste for disposal before 16th July 2001.

Commencement

Sch. 10 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 1: England, Wales

Law In Force

2.— Interpretation: general

(1) In this Schedule—

(a) unless otherwise provided, an expression that is defined in the Landfill Directive has the meaning given in that Directive,

(b) "the Decision" means Council Decision 2003/33/EC[1] ,

(c) "the Decision Annex" means the Annex to the Decision, and

(d) "landfill" has the meaning given in Article 2(g) of the Landfill Directive, but does not include any operation excluded from the scope of that Directive by **[** Article 3(2) or (3) **]** [2] .

(2) When interpreting **[…]**[3] the Decision for the purposes of this Schedule—

(a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part,

(b)-(c) **[…]**[4]

(d) "PAHs (polycyclic aromatic hydrocarbons)" means Naphthalene, Acenaphthylene, Acenaphthene, Anthracene, Benzo(a)anthracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(g,h,i)perylene, Benzo(a)pyrene, Chrysene, Coronene, Dibenzo(a,h)anthracene, Fluorene, Fluoranthene, Indeno(1,2,3-c,d)pyrene, Phenanthrene and Pyrene,

(e) "permit" means environmental permit,

(f) "SIC code" means the UK Standard Industrial Classification of Economic Activities 2007 (SIC 2007) published by the Office for National Statistics on 14th December 2007 and implemented on 1st January 2008[5] , and

(g) the competent authority is the regulator.

Notes

1 OJ No L 11, 16.1.2003, p 27.

2 Words inserted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(6)(a) (October 1, 2020)

3 Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(14)(a)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[4] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(14)(a)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[5] S e e http://www.ons.gov.uk/ons/guide-method/classifications/current-standard-classifications/standard-industrial-classification/index.html. A copy may be obtained from the Waste Regulation Team, the Department for Environment, Food and Rural Affairs, Area 2B, Nobel House, 17 Smith Square, London SW1P 3JR.

Commencement

Sch. 10 para. 2(1)-(2)(g): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 2(1)-(2)(g): England, Wales

Law In Force

3. Applications for the grant of an environmental permit

The regulator must require that every application for the grant of an environmental permit includes the information specified in Article 7 of the Landfill Directive.

Commencement

Sch. 10 para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 3: England, Wales

Law In Force

4. Inspection prior to operation

The regulator must inspect every landfill site so as to comply with the requirements in Article 8(c) of the Landfill Directive.

Commencement

Sch. 10 para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 4: England, Wales

Law In Force

5.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Landfill Directive—

(a) Article 4;
(b) Article 5(3) and (4);
(c) Article 6;
(d) Article 8, but not in respect of nuisances and hazards arising from traffic beyond the site of a landfill;
(e) Article 9;
(f) Article 10;
(g) Article 11(1);
(h) Article 12;
(i) Article 13;
(j) Article 14.

(2) The regulator must exercise those relevant functions having regard to Article 1 of the Landfill Directive.

(3) The regulator must exercise those relevant functions so as to ensure compliance with the requirements imposed **[…]**[1] by the following provisions of the Decision—

(a) Article 2;
(b) Article 3;
(c) Article 4.

(4) The regulator may exercise those relevant functions so as to permit the storage of metallic mercury in accordance with **[** Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury[3] **]**[2].

(5) **[…]**[4]

Notes

1 Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(14)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words substituted by Environment, Planning and Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2018/1216 Pt 2 reg.14(a) (December 17, 2018)

3 OJ No L 137, 24.5.2017, p. 1.

4 Revoked by Environment, Planning and Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2018/1216 Pt 2 reg.14(b) (December 17, 2018)

Commencement

Sch. 10 para. 5(1)-(5)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 5(1)-(5)(b): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales

Law In Force

England

[5A.— Waste separately collected for preparing for re-use and recycling not to be landfilled

(1) Every environmental permit which authorises a landfill is deemed to contain the following condition, unless such a condition to the same effect is included in the permit.

(2) The condition is that the operator must not accept—

(a) any waste paper, metal, plastic or glass for landfill if that waste has been separately collected for the purpose of preparing for re-use or recycling; or

(b) any waste for landfill that results from the treatment of waste referred to in paragraph (a), unless—

(i) the relevant permit authorises the operator to accept that type of waste for landfill; and

(ii) landfill of that waste delivers the best environmental outcome in accordance with regulation 12 of the Waste (England and Wales) Regulations 2011.

] [1]

Notes

[1] Added by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(6)(b) (October 1, 2020)

Wales

[5A.— Waste separately collected for preparing for re-use and recycling not to be landfilled

(1) Every environmental permit which authorises a landfill is deemed to contain the following condition, unless such a condition to the same effect is included in the permit.

(2) The condition is that the operator must not accept—

(a) in Wales, any waste paper, card, cartons, metal, plastic, glass, food, small electrical and electronic equipment or textiles for landfill if that waste has been separately collected for the purposes of preparing for re- use or recycling;

[(aa) any waste wood; or **]** [2]

(b) **[** in Wales, any waste for landfill that results from the treatment of waste referred to in paragraph (a) or (aa) unless **]** [3] —

(i) the relevant permit authorises the operator to accept that type of waste for landfill; and

(ii) landfill of that waste delivers the best environmental outcome in accordance with regulation 12 of the Waste (England and Wales) Regulations 2011.

[(3) For the purposes of this paragraph—

"cartons" means fibre-based composite packaging, being packaging material which is made of paperboard or paper fibres, laminated with low density polythene or polypropylene plastic, and which may also have layers of other materials, to form a single unit that cannot be separated by hand;

"electrical and electronic equipment" means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1,000 volts for alternating current and 1,500 volts for direct current;

"small electrical and electronic equipment" means electrical and electronic equipment falling within one of the categories of EEE listed in Schedule 3 to the Waste Electrical and Electronic Equipment Regulations 2013, excluding items with any external dimension of more than 50 centimetres.

] [4]

] [1]

Notes

[1] Words substituted by Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023/1289 Pt 3 reg.4(3)(a) (April 6, 2024)

[2] Added by Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023/1289 Pt 3 reg.4(3)(b) (April 6, 2024)

[3] Words substituted by Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023/1289 Pt 3 reg.4(3)(c) (April 6, 2024)

[4] Added by Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023/1289 Pt 3 reg.4(3)(d) (April 6, 2024)

Extent

Sch. 10 para. 5A(1)-(2)(b)(ii): England, Wales

Repealed

6. […][1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(14)(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Law In Force

7. Interpretation of the Decision Annex for the exercise of relevant functions: general

When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) in points 1.1.1 and 1.2, the periods referred to as to be defined or determined by the [appropriate authority] [1] are in each case 2 years,

(b) point 1.1.2(b) is to be read as requiring the SIC code of the process producing the waste to be part of the information referred to,

(c) in point 1.1.2(g), ignore the words "in case of mirror entries",
(d) ignore the third sentence of section 2,
(e) in points 2.1.2.1, 2.2.2, 2.3.1 and 2.4.1 the table columns headed "L/S = 10 l/kg" must be used to determine limit values,
(f) in the table in point 2.1.2.2, the limit value for PAHs (polycyclic aromatic hydrocarbons) is set at 100mg/kg,
(g) in point 2.2.3, the first reference to "gypsum-based materials" is to be read as "gypsum-based and other high sulphate-bearing materials",
(h) in point 2.3.3, the first reference to "suitable asbestos waste" is to be read as "suitable materials", and
(i) in the table in point 2.4.1, the limit values are subject to the qualification that the regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to 3 times higher than those listed for specified wastes accepted at a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

Notes

[1] Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 4(3) reg.22(2) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1)

Commencement

Sch. 10 para. 7(a)-(i): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 7(a)-(i): England, Wales

Law In Force

8. Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria relating to physical stability and bearing capacity of granular waste

When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) in point 2.3.2, the criteria to ensure that granular waste will have sufficient physical stability and bearing capacity are that it has either—
  (i) if it is cohesive waste, a mean in situ shear strength of at least 50kPa, or
  (ii) if it is non-cohesive waste, an in situ bearing ratio of at least 5%;
(b) point 2.4.2 is to be read as if, in addition to the criteria listed, it requires the satisfaction of the criteria in paragraph (a)(i) and (a)(ii).

Commencement

Sch. 10 para. 8(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 8(a)-(b): England, Wales

Law In Force

9. Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria in relating to monolithic waste

When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) point 2.3.1 is to be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to stable, non-reactive monolithic hazardous waste and non-hazardous waste which is to be landfilled in the same cell with such waste—

(i) it meets either—

(aa) the limit values for leaching set out in the table in point 2.3.1, or

(bb) the limit values for leaching set out in the following table—

Component	***Symbol***	***mg/m²***
Arsenic	As	1.3
Barium	Ba	45
Cadmium	Cd	0.2
Total Chromium	Crtotal	5
Copper	Cu	45
Mercury	Hg	0.1
Molybdenum	Mo	7
Nickel	Ni	6
Lead	Pb	6
Antimony	Sb	0.3
Selenium	Se	0.4
Zinc	Zn	30
Chloride	Cl^-	10,000
Fluoride	F^-	60
Sulphate	$SO4^{2-}$	10,000
Dissolved Organic Carbon	DOC	Must be evaluated

(ii) it meets the additional criteria set out in the following table—

Parameter	***Value***
pH of the eluate from the monolith or crushed monolith	Must be evaluated
Electrical conductivity (μ S.cm-1m-2) of the eluate from the monolith or crushed monolith	Must be evaluated
Acid Neutralisation Capacity (ANC) of the crushed monolith	Must be evaluated

(iii) it has a mean unconfined compressive strength of at least 1Mpa after 28 days' curing,

(iv) it has either—

(aa) dimensions of greater than 40cm along each side, or

(bb) a depth and fracture spacing when hardened of greater than 40cm, and

(v) where the waste was subjected to treatment to render it monolithic, prior to such treatment it met the following limit value—

(aa) loss on ignition of 10%, or

(bb) total organic carbon of 6%;

(b) point 2.4.1 in the Decision Annex is to be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to monolithic waste to be accepted at a landfill for hazardous waste—

(i) it complies with paragraphs (a)(ii) to (a)(v), and

(ii) it meets either—

(aa) the limit values for leaching set out in the table in point 2.4.1, or

(bb) the limit values for leaching set out in the following table—

Component	***Symbol***	***mg/m²***[1]
Arsenic	As	20
Barium	Ba	150
Cadmium	Cd	1
Total Chromium	Crtotal	25
Copper	Cu	60
Mercury	Hg	0.4
Molybdenum	Mo	20
Nickel	Ni	15
Lead	Pb	20
Antimony	Sb	2.5
Selenium	Se	5
Zinc	Zn	100
Chloride	Cl^-	20,000
Fluoride	F^-	200
Sulphate	$SO4^{2-}$	20,000
Dissolved Organic Carbon	DOC	Must be evaluated

Notes

[1] The regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to 3 times higher for specified wastes accepted in a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

Commencement

Sch. 10 para. 9(a)-(b)(ii)(bb): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 9(a)-(b)(ii)(bb): England, Wales

Law In Force

10.— Closure of a landfill

(1) The regulator must set out any reasoned decision under Article 13(a)(iii) of the Landfill Directive in a closure notice served on the operator.

(2) A closure notice must, in addition to stating the regulator's reasons for requiring initiation of the closure procedure, specify—

(a) the steps the operator is required to take to initiate the procedure, and

(b) the period within which they must be taken.

(3) The regulator may withdraw a closure notice at any time by further notice served on the operator.

(4) Closure of a landfill does not relieve the operator of liability under the conditions of the environmental permit.

Commencement

Sch. 10 para. 10(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 10(1)-(4): England, Wales

Law In Force

11. Surrender applications

When determining an application for the surrender, in whole or in part, of an environmental permit, the regulator must exercise its functions so as to ensure the operator complies with the requirements in Article 13(d) of the Landfill Directive.

Commencement

Sch. 10 para. 11: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 10 para. 11: England, Wales

SCHEDULE 11

Waste motor vehicles

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to waste motor vehicles.

Commencement

Sch. 11 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 11 para. 1: England, Wales

Law In Force

2.— Interpretation

(1) In this Schedule—

"waste" means waste within the meaning of Article 3(1) of the Waste Framework Directive **[** , as read with Articles 5 and 6 of that Directive **]** [1] ;

"waste motor vehicle" means a motor vehicle that is waste.

(2) **[…]**[2]

Notes

[1] Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(15)(a)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[2] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(15)(a)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 11 para. 2(1)-(2)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 11 para. 2(1)-(2)(d): England, Wales

Law In Force

3.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 6(1) and (3) of the End-of-Life Vehicles Directive.

(2) **[…]**[1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(15)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 11 para. 3(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 11 para. 3(1)-(2): England, Wales

SCHEDULE 12

Waste electrical and electronic equipment

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to WEEE which is within the scope of the WEEE Directive by virtue of Article 2 of that Directive.

Commencement

Sch. 12 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 12 para. 1: England, Wales

Repealed

2. […][1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(16) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Law In Force

3.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions so as to ensure compliance with Articles 8(1) to (3) and 9(3) of the WEEE Directive.

(2) **[…]**[1]

Notes

1 Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(16) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 12 para. 3(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 12 para. 3(1)-(2)(b): England, Wales

SCHEDULE 13

Waste incineration: Industrial Emissions Directive

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to—

(a) every small waste incineration plant, and

(b) every waste incineration plant or waste co-incineration plant,

to which Chapter IV of the Industrial Emissions Directive applies, except those which are operated as a domestic activity in connection with a private dwelling.

Commencement

Sch. 13 para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 13 para. 1(a)-(b): England, Wales

Repealed

2. […][1]

Notes

1 Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(17)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Law In Force

3. Applications for the grant of an environmental permit

The regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 44 of the Industrial Emissions Directive.

Commencement

Sch. 13 para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 13 para. 3: England, Wales

Law In Force

4.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 5(1) and (3);
(b) Article 7;
(c) Article 8(2);
(d) Article 9;
(e) Article 42(1)
(f) Article 43;
(g) Article 45(1), (2) and (4);
(h) Article 46;
(i) Article 47;
(j) Article 48(1) to (4);
(k) Article 49;
(l) Article 50;
[(m) Article 51; **]** [1]
(n) Article 52;
(o) Article 53;
(p) Article 54;
(q) Article 55;
(r) Article 82(5) and (6).

(2) **[…]**[2]

Notes

[1] Substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(17)(b)(i)(bb) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[2] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(17)(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 13 para. 4(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 13 para. 4(1)-(2)(b): England, Wales

SCHEDULE 14

Solvent emission activities

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to every solvent emission activity, but it does not apply to installations used solely for research activities, development activities or the testing of new products or processes.

Commencement

Sch. 14 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 14 para. 1: England, Wales

Repealed

2. […][1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(18)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Law In Force

3. Exercise of relevant functions

The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 5(1) and (3);

(b) Article 7;

(c) Article 8(2);

(d) Article 9;
(e) Article 57;
(f) Article 58;
(g) Article 59**[…]**[1] ;
(h) Article 60;
(i) Article 61;
(j) Article 62;
(k) Article 63;
(l) Article 65;
(m) Article 82(7), (8) and (9).

Notes

[1] Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(18)(b)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 14 para. 3(a)-(m): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 14 para. 3(a)-(m): England, Wales

SCHEDULE 15

Large combustion plants: Industrial Emissions Directive

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to every large combustion plant.

Commencement

Sch. 15 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 15 para. 1: England, Wales

Law In Force

2.— Interpretation

(1) In this Schedule—

[…][1]

"large combustion plant" means a combustion plant with a total rated thermal input of 50 or more megawatts to which Chapter III of the Industrial Emissions Directive applies.

(2) **[…]**[2]

Notes

1 Definition revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.14 (January 30, 2018)

2 Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(19)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 15 para. 2(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 15 para. 2(1)-(2)(c): England, Wales

Law In Force

3. Exercise of relevant functions

The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 29;
(b) Article 30(1) to (8)**[…]**[1];
(c) Article 31(1) and (2);
(d) Article 32(2) and (3);
(e) Article 33**[…]**[2];
(f) Article 34(1) and (2);
(g) Article 35(1);
(h) Article 37;
(i) Article 38;
(j) Article 39;
(k) Article 40.

Notes

1 Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(19)(b)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(19)(b)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 15 para. 3(a)-(k): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 15 para. 3(a)-(k): England, Wales

Law In Force

4. Interruption in supply of fuel

The regulator must—

(a) immediately inform the appropriate authority of any derogation under Article 30(5) of the Industrial Emissions Directive;

(b) immediately inform the appropriate authority if it considers that a derogation in accordance with Articles 30(6) or 37(2) of the Industrial Emissions Directive is or might be appropriate.

Commencement

Sch. 15 para. 4(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 15 para. 4(a)-(b): England, Wales

SCHEDULE 16

Asbestos

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to every regulated facility.

Commencement

Sch. 16 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 16 para. 1: England, Wales

Repealed

2. […][1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(20) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Law In Force

3.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Asbestos Directive—

(a) Article 3;
(b) Article 4(1);
(c) Article 5;
(d) Article 6(1) and (2);
(e) Article 8.

(2) **[…][1]**

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(20) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 16 para. 3(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 16 para. 3(1)-(2): England, Wales

SCHEDULE 17

Titanium dioxide: Industrial Emissions Directive

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to every installation in which titanium dioxide is produced.

Commencement

Sch. 17 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 17 para. 1: England, Wales

Repealed

2. […][1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(21) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Law In Force

3. Exercise of relevant functions

The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 67;
(b) Article 68;
(c) Article 69;
(d) Article 70.

Commencement

Sch. 17 para. 3(a)-(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 17 para. 3(a)-(d): England, Wales

SCHEDULE 18

Petrol vapour recovery

Regulation 35(1)

PART 1

PVR I

Law In Force

1. Application

This Part applies in relation to every Part B activity falling within paragraphs (b) and (c) of Part B of Section 1.2 of Part 2 of Schedule 1.

Commencement

Sch. 18(1) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 18(1) para. 1: England, Wales

Law In Force

2.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of PVR I—

(a) Article 3(1), first paragraph;

(b) Article 4(1), first and last paragraphs, and 4(3);

(c) Article 6(1), first paragraph.

(2) **[…]**[1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(22) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 18(1) para. 2(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 18(1) para. 2(1)-(2)(b): England, Wales

PART 2

PVR II

Law In Force

1. Application

This Part applies in relation to every Part B activity falling within paragraphs (d) to (f) of Part B of Section 1.2 of Part 2 of Schedule 1.

Commencement

Sch. 18(2) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 18(2) para. 1: England, Wales

Law In Force

2.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of PVR II—

(a) Article 3;

(b) Article 4;

(c) Article 5.

(2) **[…]**[1]

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(22) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 18(2) para. 2(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 18(2) para. 2(1)-(2)(b): England, Wales

SCHEDULE 19

Waste batteries and accumulators

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to waste batteries and accumulators.

Commencement

Sch. 19 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 19 para. 1: England, Wales

Law In Force

2.— Exercise of relevant functions

(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 12(2) of the Batteries Directive.

(2) The regulator must exercise its relevant functions so as to ensure compliance with Article 3 of Regulation (EU) No 493/2012, and for the purposes of Article 3(4) of that Regulation the regulator is the competent authority.

(3) In sub-paragraph (2), "Regulation (EU) No 493/2012" means Commission Regulation (EU) No 493/2012 laying down, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators[1].

Notes

[1] OJ No L 151, 12.6.2012, p 9.

Commencement

Sch. 19 para. 2(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 19 para. 2(1)-(3): England, Wales

SCHEDULE 20

Mining waste operations

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to every mining waste operation.

Commencement

Sch. 20 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 1: England, Wales

Law In Force

2.— Interpretation

(1) In this Schedule—

"fire and rescue authority" means the fire and rescue authority under the Fire and Rescue Services Act 2004[1] for the area in which the mining waste facility is located;

"mining waste facility" means a "waste facility" as defined in Article 3(15) of the Mining Waste Directive but excludes those facilities mentioned in Article 24(2) or in the first paragraph of Article 24(4) of that Directive;

"mining waste operation" means the management of extractive waste, whether or not involving a mining waste facility, but does not include the activities in Article 2(2)(c) of the Mining Waste Directive;

"waste management plan" means a plan of the type described in Article 5(1) of the Mining Waste Directive which has the objectives in Article 5(2) and contains the elements and information set out in Article 5(3) of that Directive.

(2) **[…]**[2]

Notes

1 Section 1 was amended by paragraph 10(1) and (2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36).

2 Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(23) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 20 para. 2(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 2(1)-(2)(c): England, Wales

Law In Force

3.— Applications for grant or variation of an environmental permit

(1) The regulator must require that every application for the grant or variation of an environmental permit in relation to a mining waste operation involving a mining waste facility to which Article 7 of the Mining Waste Directive applies includes—

(a) the information specified in Article 7(2) of that Directive, and

(b) where Article 6 of the Directive applies, the information mentioned in the second sentence of the third paragraph of Article 6(3).

(2) Where the regulator receives an application for the grant or variation of an environmental permit and that application includes the information required under sub-paragraph (1)(b), the regulator must immediately forward the information to the fire and rescue authority.

(3) The regulator must require that every application for the grant or variation of an environmental permit in relation to any other mining waste operation includes a waste management plan.

(4) For the purposes of this paragraph, the regulator may accept a waste management plan produced pursuant to other legislation which complies with Article 5(1) to (4) of the Mining Waste Directive if it has been reviewed and amended in accordance with Article 5(4) of that Directive.

Commencement

Sch. 20 para. 3(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 3(1)-(4): England, Wales

Law In Force

4. Review of environmental permits

The regulator must periodically review an environmental permit relating to a mining waste facility if Article 7 of the Mining Waste Directive applies in respect of that facility and any of the circumstances in Article 7(4) of the Directive apply in relation to it.

Commencement

Sch. 20 para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 4: England, Wales

Law In Force

5. Classification of mining waste facilities

The regulator must exercise its functions so as to ensure compliance with Article 9 of the Mining Waste Directive in respect of any mining waste facility to which Article 7 of that Directive does not apply.

Commencement

Sch. 20 para. 5: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 5: England, Wales

Law In Force

6. Inspections

The regulator must inspect every mining waste facility to which Article 7 of the Mining Waste Directive applies so as to comply with the requirements of Article 17(1) of that Directive [1 and Commission Implementing Decision (EU) 2020/248 laying down technical guidelines for inspections in accordance with Article 17 of Directive 2006/21/EC[2]]1 .

Notes

1 Words inserted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 3 reg.21(7) (October 1, 2020)

2 OJ No L 51, 25.2.2020, p. 4.

Commencement

Sch. 20 para. 6: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 6: England, Wales

Law In Force

7. Exercise of relevant functions

The regulator must exercise its relevant functions so as to ensure compliance with the following requirements of the Mining Waste Directive—

(a) Article 2(4);

(b) Article 4;

(c) Article 5(4) and (6);

(d) Article 6(2), the first and second paragraphs of Article 6(3), the first paragraph of Article 6(4) to the extent that it relates to plans prepared under the first paragraph of Article 6(3) and the second paragraph of Article 6(4) to the extent that it relates to the regulator's functions;

(e) Article 7(1) and (3)(a);

(f) Article 10;
(g) Article 11;
(h) Article 12;
(i) Article 13;
(j) Article 14(1) to (3);
(k) Article 17(2);
(l) Article 24(1).

Commencement

Sch. 20 para. 7(a)-(l): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 7(a)-(l): England, Wales

Law In Force

8. Public participation

The regulator must exercise its functions under the public participation provisions in relation to mining waste facilities to which Article 7 of the Mining Waste Directive applies so as to meet the requirements of Article 8 of that Directive.

Commencement

Sch. 20 para. 8: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 8: England, Wales

Law In Force

9.— Derogation from requirements

(1) The regulator must exercise its functions to ensure that the requirements mentioned in the first paragraph of Article 2(3) of the Mining Waste Directive do not apply to the substances mentioned in that paragraph where they result from an operation mentioned in that paragraph, to the extent allowed by that paragraph.

(2) The regulator must waive the requirements of the Mining Waste Directive in relation to the deposit of the substances mentioned in the second paragraph of Article 2(3) of that Directive if the regulator is satisfied that the requirements of Article 4 of that Directive are met.

(3) The regulator must waive the requirements mentioned in the third paragraph of Article 2(3) of the Mining Waste Directive in relation to the waste mentioned in that paragraph to the extent allowed by that paragraph.

Commencement

Sch. 20 para. 9(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 9(1)-(3): England, Wales

Law In Force

10.— Closure of a mining waste facility

(1) The regulator must set out any reasoned decision under Article 12(2)(c) of the Mining Waste Directive in a closure notice served on the operator.

(2) A closure notice must, in addition to stating the regulator's reasons for requiring initiation of the closure procedure, specify—

(a) the steps the operator is required to take to initiate the procedure, and

(b) the period within which they must be taken.

(3) The regulator may withdraw a closure notice at any time by further notice served on the operator.

(4) Closure of a mining waste facility does not relieve the operator of liability under the environmental permit conditions that relate to the facility.

(5) The regulator must exercise its functions so as to ensure compliance with Article 14(4) of the Mining Waste Directive.

Commencement

Sch. 20 para. 10(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 10(1)-(5): England, Wales

Law In Force

11. Inventory of closed mining waste facilities

The regulator must maintain and make available to the public an inventory of closed mining waste facilities so as to ensure compliance with Article 20 of the Mining Waste Directive.

Commencement

Sch. 20 para. 11: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 11: England, Wales

Law In Force

12.— Developments in best available techniques

(1) The regulator must ensure that it is informed of developments in best available techniques.

(2) In this paragraph, "best available techniques" has the meaning given in Article 3(10) of the Industrial Emissions Directive.

Commencement

Sch. 20 para. 12(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 12(1)-(2): England, Wales

Law In Force

13. Planning permission conditions

(1) Where—

(a) a mining waste operation is the subject of an environmental permit,

(b) that operation has been granted planning permission subject to conditions ("planning conditions"), and

(c) there is an inconsistency between the environmental permit conditions and the planning conditions,

the environmental permit conditions prevail.

(2) In this paragraph, "planning permission" means planning permission under the Town and Country Planning Act 1990 and includes—

(a) a certificate under section 191 of that Act[1], and

(b) an established use certificate under section 192 of that Act[2], as originally enacted, which continues to have effect for the purposes of subsection (4) of that section.

Notes

[1] Section 191 was substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34) and amended by section 124(3) of the Localism Act 2011 (c. 20) and paragraph 6(1) and (3) of Schedule 4 to the Mobile Homes (Wales) Act 2013 (anaw. 6).

[2] Section 192 was substituted by section 10(1) of the Planning and Compensation Act 1991.

Commencement

Sch. 20 para. 13(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 13(1)-(2)(b): England, Wales

Law In Force

14.— Applications for grant or variation of an environmental permit for a Category A mining waste facility

(1) The regulator must not grant an application for the grant or variation of an environmental permit relating to a Category A mining waste facility until it has been notified by the fire and rescue authority that it has the information necessary to enable it to draw up an external emergency plan.

(2) The regulator must refuse an application relating to a Category A mining waste facility that is an existing mining waste facility upon receipt of a notice by the fire and rescue authority stating that the operator has not provided the information necessary to enable the fire and rescue authority to draw up an external emergency plan.

(3) In this paragraph, "external emergency plan" means a plan as required under the third paragraph of Article 6(3) of the Mining Waste Directive that has the objectives specified in the first paragraph of Article 6(4) of that Directive.

Commencement

Sch. 20 para. 14(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 20 para. 14(1)-(3): England, Wales

SCHEDULE 21

Water discharge activities

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to every water discharge activity.

Commencement

Sch. 21 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 21 para. 1: England, Wales

Law In Force

2. Interpretation

In this Schedule—

"discharging sewer" means the sewer or works from which sewage effluent is discharged;
"discharging undertaker" means the sewerage undertaker in which a discharging sewer is vested;
"main connection" has the same meaning as in section 110A of the Water Industry Act 1991[1];
"pipe" has the same meaning as in the 1991 Act;
"sending undertaker" means a sewerage undertaker which discharges sewage effluent into the discharging sewer or other sewer or works vested in the discharging undertaker;
"waste" in the term "waste matter" includes—

(a) anything that is waste for the purposes of the Waste Framework Directive and is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;

(b) anything that is waste for the purposes of the Mining Waste Directive and is not excluded from the scope of that Directive by Article 2(2) of that Directive.

Notes

[1] Section 110A was inserted by section 45 of the Competition and Service (Utilities) Act 1992 (c. 43) and substituted by section 9(1) of the Water Act 2014 (c. 21).

Commencement

Sch. 21 para. 2 definition of "discharging sewer"- definition of "waste" (b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 21 para. 2 definition of "discharging sewer"- definition of "waste" (b): England, Wales

Law In Force

3.— Meaning of "water discharge activity"

(1) A "water discharge activity" means any of the following—

(a) the discharge or entry to inland freshwaters, coastal waters or relevant territorial waters of any—

(i) poisonous, noxious or polluting matter,

(ii) waste matter, or

(iii) trade effluent or sewage effluent;

(b) the discharge from land through a pipe into the sea outside the seaward limits of relevant territorial waters of any trade effluent or sewage effluent;

(c) the removal from any part of the bottom, channel or bed of any inland freshwaters of a deposit accumulated by reason of any dam, weir or sluice holding back the waters, by causing it to be carried away in suspension in the waters, unless the activity is carried on in the exercise of a power conferred by or under any enactment relating to land drainage, flood prevention or navigation;

(d) the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them, where it is not reasonable to take steps to remove the vegetation from these waters;

(e) an activity in respect of which a notice under paragraph 4 or 5 has been served and has taken effect.

(2) A discharge or an activity that might lead to a discharge is not a "water discharge activity"—

(a) if the discharge is made, or authorised to be made, by or under any prescribed statutory provision, or

(b) if the discharge is of trade effluent or sewage effluent from a vessel.

(3) In determining whether a discharge or an activity is a water discharge activity, no account must be taken of any radioactivity possessed by any substance or article or by any part of any premises.

Commencement

Sch. 21 para. 3(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 21 para. 3(1)-(3): England, Wales

Law In Force

4.— Highway drains - notice requiring environmental permit

(1) This paragraph applies where—

(a) a person is operating a highway drain, and

(b) that activity might lead to a discharge mentioned in paragraph 3(1)(a) or (b).

(2) The regulator may serve a notice on the person operating the highway drain requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of that activity.

(3) A notice under this paragraph takes effect on the date specified in it, which must be at least 6 months after it is served.

Commencement

Sch. 21 para. 4(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 21 para. 4(1)-(3): England, Wales

Law In Force

5.— Discharge of trade effluent or sewage effluent into lake or pond - notice requiring environmental permit

(1) The regulator may serve a notice on a person who discharges trade effluent or sewage effluent into the waters of any lake or pond which are not inland freshwaters requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of that activity.

(2) A notice under this paragraph takes effect on the date specified in it, which must be at least 3 months after it is served.

Commencement

Sch. 21 para. 5(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 21 para. 5(1)-(2): England, Wales

Law In Force

6.— Liability resulting from discharge of sewage effluent from public sewer

(1) This paragraph applies for the purpose of determining liability for a water discharge activity that consists of a discharge of sewage effluent from a discharging sewer vested in a discharging undertaker.

(2) A discharging undertaker causes a discharge of sewage effluent if—

(a) matter included in the discharge is received by the discharging undertaker into the discharging sewer or into any other sewer or works vested in it,

(b) the discharging undertaker was bound (either unconditionally or subject to conditions which were observed) to receive the matter into the discharging sewer or other sewer or works, and

(c) sub-paragraph (3) does not apply.

(3) This sub-paragraph applies if, before the discharging undertaker discharges the sewage effluent from the discharging sewer, the sending undertaker, under an agreement with the discharging undertaker under section 110A of the Water Industry Act 1991, discharges the sewage effluent through a main connection into—

(a) the discharging sewer, or

(b) any other sewer or works vested in the discharging undertaker.

(4) If sub-paragraph (3) applies, the sending undertaker causes the discharge if—

(a) matter included in the discharge is received by the sending undertaker into a sewer or works vested in it, and

(b) it was bound (either conditionally or subject to conditions which were observed) to receive that matter into that sewer or works.

(5) [In relation to Wales, a sewerage undertaker][1] is not guilty of an offence under regulation 38(1) in relation to a water discharge activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

(a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works,

(b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed, and

(c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

[(5A) In relation to England, a sewerage undertaker is not guilty of an offence under regulation 38(1) or (2) in relation to a water discharge activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

(a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works,

(b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed, and

(c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

] [2]

(6) A person is not guilty of an offence under regulation 38(1) in relation to a discharge which the person caused or knowingly permitted to be made into a sewer or works vested in a sewerage undertaker if that undertaker was bound to receive the discharge, either unconditionally or subject to conditions which were observed.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.6(a) (October 2, 2023)

[2] Added by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.6(b) (October 2, 2023)

Commencement

Sch. 21 para. 6(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 21 para. 6(1)-(6): England, Wales

SCHEDULE 22

Groundwater activities

Regulation 35(1)

Law In Force

1. Application

This Schedule applies in relation to every groundwater activity.

Commencement

Sch. 22 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 1: England, Wales

Law In Force

2. Interpretation

In this Schedule—

"body of groundwater" has the same meaning as in the Water Framework Directive;

"direct input" in relation to groundwater means the introduction of a pollutant to groundwater without percolation through soil or subsoil;

"indirect input" in relation to groundwater means the introduction of a pollutant to groundwater after percolation through soil or subsoil;

"surface waters" has the same meaning as in the Water Framework Directive.

Commencement

Sch. 22 para. 2 definition of "body of groundwater"- definition of "surface waters": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 2 definition of "body of groundwater"- definition of "surface waters": England, Wales

Law In Force

3.— Meaning of "groundwater activity"

(1) Subject to sub-paragraphs (2) and (3), "groundwater activity" means any of the following—

(a) the discharge of a pollutant that results in the direct input of that pollutant to groundwater;

(b) the discharge of a pollutant in circumstances that might lead to an indirect input of that pollutant to groundwater;

(c) any other discharge that might lead to the direct or indirect input of a pollutant to groundwater;

(d) an activity in respect of which a notice under paragraph 10 has been served and has taken effect;

(e) an activity that might lead to a discharge mentioned in paragraph (a), (b) or (c), where that activity is carried on as part of the operation of a regulated facility of another class.

(2) A discharge or an activity that might lead to a discharge is not a "groundwater activity" if the discharge is—

(a) made, or authorised to be made, by or under any prescribed statutory provision, or

(b) of trade effluent or sewage effluent from a vessel.

(3) The regulator may determine that a discharge, or an activity that might lead to a discharge, is not a groundwater activity if the input of the pollutant—

(a) is the consequence of an accident or exceptional circumstances of natural cause that could not reasonably have been foreseen, avoided or mitigated,

(b) is or would be of a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater, or

(c) is or would be incapable, for technical reasons, of being prevented or limited without using—

(i) measures that would increase risks to human health or to the quality of the environment as a whole, or
(ii) disproportionately costly measures to remove quantities of pollutants from, or otherwise control their percolation in, contaminated ground or subsoil.

(4) The regulator must keep a record of all determinations under sub-paragraph (3).

Commencement

Sch. 22 para. 3(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 3(1)-(4): England, Wales

Law In Force

4.— Meaning of "hazardous substance"

(1) A hazardous substance is any substance or group of substances that are toxic, persistent and liable to bio-accumulate, or that give rise to an equivalent level of concern.

(2) This includes in particular the following when they meet the criteria in sub-paragraph (1)—
(a) organohalogen compounds and substances which may form such compounds in the aquatic environment;
(b) organophosphorous compounds;
(c) organotin compounds;
(d) substances and preparations, or the breakdown products of such, which have been proved to possess carcinogenic or mutagenic properties or properties which may affect steroidogenic, thyroid, reproduction or other endocrine-related functions in or via the aquatic environment;
(e) hydrocarbons and organic substances;
(f) cyanides;
(g) metals (in particular, cadmium and mercury) and their compounds;
(h) arsenic and its compounds;
(i) biocides and plant protection products.

(3) The regulator must publish a list of substances that it considers to be hazardous substances.

Commencement

Sch. 22 para. 4(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 4(1)-(3): England, Wales

Law In Force

5. Meaning of "non-hazardous pollutant"

A non-hazardous pollutant is any pollutant other than a hazardous substance.

Commencement

Sch. 22 para. 5: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 5: England, Wales

Law In Force

6. Exercise of relevant functions

For the [purpose of the duties in regulation 3 of the WFD Regulations][1], the regulator must, in exercising its relevant functions, take all necessary measures—

(a) to prevent the input of any hazardous substance to groundwater, and

(b) to limit the input of non-hazardous pollutants to groundwater so as to ensure that such inputs do not cause pollution of groundwater.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(24)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 22 para. 6(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 6(a)-(b): England, Wales

Law In Force

7.— Applications for grant of environmental permit

(1) This paragraph applies to an application for the grant of an environmental permit relating to—

(a) a discharge mentioned in paragraph 3(1)(a), (b) or (c), or

(b) an activity that might lead to such a discharge.

(2) When the regulator receives an application, it must ensure that all necessary investigations have been carried out to ensure that it grants any permit in accordance with paragraph 6.

(3) If it grants the permit, it must include conditions requiring all necessary technical precautions to be observed to ensure the objectives of paragraph 6 are achieved.

(4) A permit may not be granted [in relation to Wales][1] —

(a) without examination of—

(i) the hydrogeological conditions of the area concerned,
(ii) the possible purifying powers of the soil and subsoil, and
(iii) the risk of pollution and alteration of the quality of the groundwater from the discharge, and

(b) without establishing whether the input of pollutants to groundwater is a satisfactory solution from the point of view of the environment.

[1] (4A) A permit may not be granted in relation to England—

(a) without an assessment of—

(i) the relevant hydrogeological conditions,
(ii) the possible purifying powers of soil and subsoil, and
(iii) the risk of pollution and alteration of the quality of the groundwater from the discharge, and

(b) without establishing whether the input of pollutants to groundwater is a satisfactory solution from the point of view of the environment.

][2]

(5) A permit may only be granted if the regulator has checked that the groundwater (and, in particular, its quality) will undergo the requisite surveillance.

Notes

1 Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.7(a)(i) (October 2, 2023)

2 Added by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.7(a)(ii) (October 2, 2023)

Commencement

Sch. 22 para. 7(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 7(1)-(5): England, Wales

Law In Force

8. Groundwater activities for which a permit may be granted

[1] (1) Despite paragraph 6, provided it does not compromise the achievement of any of the environmental objectives relating to groundwater in relation to a river basin district, the regulator may grant an environmental permit for—

(a) the injection of water containing substances resulting from the operations for exploration and extraction of hydrocarbons or mining activities, and injection of water for technical reasons, into geological formations from which hydrocarbons or other substances have been extracted or into geological formations which for natural reasons are permanently unsuitable for other purposes, provided that the injection does not contain substances other than those resulting from the above operations;

(b) the reinjection of pumped groundwater from mines and quarries or associated with the construction or maintenance of civil engineering works;

(c) the injection of natural gas or liquefied petroleum gas for storage purposes into geological formations which for natural reasons are permanently unsuitable for other purposes;
(d) the injection of carbon dioxide streams for storage purposes into geological formations which for natural reasons are permanently unsuitable for other purposes, provided that such injection is made in accordance with Chapter 3 of Part 1 of the Energy Act 2008 and other EU-derived domestic legislation which transposed Directive 2009/31/EC on the geological storage of carbon dioxide in relation to England and Wales;
(e) the injection of natural gas or liquefied petroleum gas for storage purposes into other geological formations where there is an overriding need for security of gas supply, and where the injection is such as to prevent any present or future danger of deterioration in the quality of any receiving groundwater;
(f) construction, civil engineering and building works and similar activities on or in the ground which come into contact with groundwater;
(g) discharges of small quantities of substances for scientific purposes for characterisation, protection or remediation of bodies of water limited to the amount strictly necessary for the purposes concerned;
(h) interventions in surface waters for the purposes, amongst others, of mitigating the effects of floods and droughts, and for the management of waters and waterways;
(i) the artificial recharge or augmentation of a body of groundwater for the purposes of groundwater management;
(j) reinjection into the same aquifer of water used for geothermal purposes;
(k) in relation to England, any groundwater activity to remediate the effects of pollution in groundwater or in the land or waters surrounding groundwater;
(l) in relation to England, the injection of any substance into groundwater to increase the flow of fluids or gas to a well or borehole in connection with the extraction or use of any source of energy.

] [1]

[(2) In sub-paragraph (1)(k), the reference to remediating the effects of pollution is—
(a) in the case of the groundwater in question, to doing any works, carrying out any operations or taking any steps to prevent or minimise, or remedy or mitigate the effects of pollution, or
(b) in the case of land or waters surrounding the groundwater in question, to restoring the land or waters to (or closer to) their former state.

] [2]

Notes

[1] Existing text renumbered as Sch.22 para.8(1) and Sch.22 para.8(1)(k) and (l) inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.7(b) (October 2, 2023)

[2] Added by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.7(b)(iii) (October 2, 2023)

Commencement

Sch. 22 para. 8(a)-(j): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 8(a)-(2)(b): England, Wales

Law In Force

9.— Prohibition notice

(1) This paragraph applies where—

(a) any person is carrying on, or proposing to carry on, any activity on or in the ground, and

(b) that activity might lead to a discharge mentioned in paragraph 3(1)(a), (b) or (c).

(2) The regulator may serve a notice on the person prohibiting the carrying on of the activity.

(3) The regulator may withdraw a prohibition notice at any time by further notice served on the person.

Commencement

Sch. 22 para. 9(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 9(1)-(3): England, Wales

Law In Force

10.— Notice requiring environmental permit

(1) This paragraph applies where—

(a) any person is carrying on, or proposing to carry on, any activity on or in the ground, and

(b) that activity might lead to a discharge mentioned in paragraph 3(1)(a), (b) or (c).

(2) The regulator may serve a notice on the person requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of the activity.

(3) A notice under sub-paragraph (2) takes effect on the date specified in it, but—

(a) a notice served for the purpose of paragraph 11 must not take effect until at least 6 months after it is served, and

(b) a notice served for the purpose of paragraph 12, or for any other purpose, must not take effect until at least 3 months after it is served.

Commencement

Sch. 22 para. 10(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 10(1)-(3)(b): England, Wales

Law In Force

11. Notice in relation to a highway drain

A highway authority or other person entitled to keep open a highway drain by virtue of section 100 of the 1980 Act[1] who operates a highway drain other than under and in accordance with an environmental permit is not guilty of an offence under regulation 38(1) unless—

(a) the regulator has served a notice on that person under paragraph 10 of this Schedule, and

(b) the notice has taken effect.

Notes

[1] 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).

Commencement

Sch. 22 para. 11(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 11(a)-(b): England, Wales

Law In Force

12.— Guidance

(1) The appropriate authority may issue guidance to persons causing or liable to cause inputs of pollutants to groundwater with respect to the steps they must take to prevent or limit those pollutants from entering groundwater.

(2) The regulator must take into account whether or not such guidance is or is likely to be complied with before taking any enforcement action under these Regulations.

(3) Guidance must be publicised as the appropriate authority sees fit.

Commencement

Sch. 22 para. 12(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 12(1)-(3): England, Wales

Law In Force

13.— Liability resulting from discharge of sewage effluent from public sewer

(1) This paragraph applies for the purpose of determining liability for a groundwater activity that consists of a discharge of sewage effluent from a discharging sewer vested in a discharging undertaker.

(2) A discharging undertaker causes a discharge of sewage effluent if—

(a) matter included in the discharge is received by the discharging undertaker into the discharging sewer or into any other sewer or works vested in it,

(b) the discharging undertaker was bound (either unconditionally or subject to conditions which were observed) to receive the matter into the discharging sewer or other sewer or works, and

(c) sub-paragraph (3) does not apply.

(3) This sub-paragraph applies if, before the discharging undertaker discharges the sewage effluent from the discharging sewer, the sending undertaker, under an agreement with the discharging undertaker under section 110A of the Water Industry Act 1991[1], discharges the sewage effluent through a main connection into—

(a) the discharging sewer, or

(b) any other sewer or works vested in the discharging undertaker.

(4) If sub-paragraph (3) applies, the sending undertaker causes the discharge if—

(a) matter included in the discharge was received by the sending undertaker into a sewer or works vested in it, and

(b) it was bound (either conditionally or subject to conditions which were observed) to receive that matter into that sewer or works.

(5) [In relation to Wales, a sewerage undertaker][2] is not guilty of an offence under regulation 38(1) in relation to a groundwater activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

(a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works,

(b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed, and

(c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

[(5A) In relation to England, a sewerage undertaker is not guilty of an offence under regulation 38(1) or (2) in relation to a groundwater activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

(a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works,

(b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed, and

(c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

][3]

(6) A person is not guilty of an offence under regulation 38(1) in relation to a discharge which the person caused or knowingly permitted to be made into a sewer or works vested in a sewerage undertaker if that undertaker was bound to receive the discharge, either unconditionally or subject to conditions which were observed.

Notes

[1] Section 110A was inserted by section 45 of the Competition and Service (Utilities) Act 1992 (c. 43) and substituted by section 9(1) of the Water Act 2014 (c. 21).

[2] Words substituted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.7(c)(i) (October 2, 2023)

[3] Added by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 reg.7(c)(ii) (October 2, 2023)

Commencement

Sch. 22 para. 13(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 22 para. 13(1)-(6): England, Wales

SCHEDULE 23

Radioactive substances activities

Regulation 35(1)

PART 1

Application

Law In Force

1. Application

This Schedule applies in relation to every radioactive substances activity.

Commencement

Sch. 23(1) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(1) para. 1: England, Wales

PART 2

Interpretation

Law In Force

1.— Interpretation

(1) In this Schedule—

"article" includes a part of an article;

"Bq" means becquerels;

"contamination" occurs where a substance or article is so affected by—

(a) absorption, admixture or adhesion of radioactive material or radioactive waste, or

(b) the emission of neutrons or ionising radiation,

as to become radioactive or to possess increased radioactivity;

"disposal" in relation to waste includes its removal, deposit, destruction, discharge (whether into water or into the air or into a sewer or drain or otherwise) or burial (whether underground or otherwise) and "dispose of" is to be construed accordingly;

"m", where it appears after a radionuclide, means a radionuclide in a metastable state of radioactive decay in which gamma photons are emitted;

"mobile radioactive apparatus" means any apparatus, equipment, appliance or other thing which is radioactive material and—

(a) is constructed or adapted for being transported from place to place, or

(b) is portable and designed or intended to be used for releasing radioactive material into the environment or introducing it into organisms;

"nuclear site" means—

(a) any site in respect of which a nuclear site licence is for the time being in force, or

(b) any site in respect of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not yet come to an end,

and "licensee" , when used in relation to a nuclear site, and "period of responsibility" have the same meaning as in the Nuclear Installations Act 1965[1] ;

"premises" includes any land, whether covered by buildings or not, including any place underground and any land covered by water;

"relevant liquid" means a liquid which—

(a) is non-aqueous, or

(b) is classified (or would be so classified in the absence of its radioactivity) under Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures[2] as having any of the following hazard classes and hazard categories (as defined in that Regulation)—

(i) acute toxicity: categories 1, 2 or 3,

(ii) skin corrosion/irritation: category 1 corrosive, sub-categories: 1A, 1B or 1C, or

(iii) hazardous to the aquatic environment: acute category 1 or chronic categories 1 or 2;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

"Table 1", "Table 2", "Table 3" mean the tables with those numbers in Part 3 of this Schedule;

"undertaking" includes any trade, business or profession and—

(a) in relation to a public or local authority, includes any of the powers or duties of that authority;

(b) in relation to any other body of persons (whether corporate or unincorporate), includes any of the activities of that body;

"waste" should be construed in accordance with paragraph 3(2).

(2) In this Schedule, where any reference is made to a substance or article possessing a concentration or quantity of radioactivity which exceeds the value specified in a column in either of Tables 1 and 2, [or any of Tables 4A, 5 or 7 in Part 6][3] of this Schedule, that value is exceeded if—

(a) where only one radionuclide which is listed or described in the relevant table is present in the substance or article, the concentration or quantity of that radionuclide exceeds the concentration or quantity specified in the appropriate entry of that column in that table, or

(b) where more than one radionuclide which is listed or described in the relevant table is present, the sum of the quotient values of all such radionuclides in the substance or article, as determined by the summation rule following the table (as it applies to that column), is greater than one,

and any reference to a concentration or quantity of radioactivity not exceeding such a value shall be construed accordingly.

Notes

[1] The definition of "period of responsibility" was substituted by paragraph 20 of Part 2 of Schedule 12 to the Energy Act 2013 (c. 32).

[2] OJ No L 353, 31.12.2008, p 1, as last amended by Commission Regulation (EU) No 1297/2014 (OJ No L 350, 6.12.2014, p 1).

[3] Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(2) para. 1(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 1(1)-(2)(b): England, Wales

Law In Force

2.— Interpretation: NORM industrial activity

(1) Subject to sub-paragraph (2), in this Schedule—

"type 1 NORM industrial activity" means—

(a) the production and use of thorium, or thorium compounds, and the production of products where thorium is deliberately added, or

(b) the production and use of uranium or uranium compounds, and the production of products where uranium is deliberately added;

"type 2 NORM industrial activity" means—

(a) the extraction and production of rare earth elements and rare earth element alloys,

(b) the mining and processing of ores other than uranium ore,

(c) the production of oil and gas,

(d) the removal and management of radioactive scales and precipitates from equipment associated with industrial activities,
(e) any industrial activity utilising phosphate ore,
(f) the manufacture of titanium dioxide pigments,
(g) the extraction and refining of zircon and manufacture of zirconium compounds,
(h) the production of tin, copper, aluminium, zinc, lead and iron and steel,
(i) any activity related to coal mine de-watering plants,
(j) china clay extraction,
(k) water treatment associated with provision of drinking water, **[…]**[1]
[(ka) geothermal energy production, or **]** [2]
(l) the remediation of contamination from any type 1 NORM industrial activity or any of the activities listed above.

(2) An activity which involves the processing of radionuclides of natural terrestrial or cosmic origin for their radioactive, fissile or fertile properties is not a type 1 NORM industrial activity or a type 2 NORM industrial activity.

Notes

[1] Word revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(2) para. 2(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 2(1)-(1) definition of "type 2 NORM industrial activity" (k), (1) definition of "type 2 NORM industrial activity" (l)-(2): England, Wales

Sch. 23(2) para. 2(1) definition of "type 2 NORM industrial activity" (ka): (extent not available)

Law In Force

3.— Interpretation: "radioactive material", "radioactive waste" and "waste"

(1) In this Schedule, except as provided by **[** paragraph 7, 8, 9, 9A or 10 **]** [1] —
"radioactive material" means a substance or article which is not waste, and which satisfies the requirements of paragraph 4, 5 or 6 as they apply to such a substance or article;
"radioactive waste" means a substance or article which is waste, and which satisfies the requirements of paragraph 4, 5 or 6.

(2) In this Schedule—
(a) "waste" includes—
(i) any substance which constitutes scrap material or an effluent or other unwanted surplus substance arising from the application of any process, and
(ii) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoilt, and

(b) any substance or article which, in the course of carrying on any undertaking, is discharged, discarded or otherwise dealt with as if it were waste is presumed to be waste unless the contrary is proved.

Notes

[1] Word inserted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(2) para. 3(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 3(1)-(2)(b): England, Wales

Law In Force

4.— NORM industrial activities

(1) Sub-paragraph (2) applies to a substance or article which—

(a) arises from or is used in a type 1 NORM industrial activity,

(b) is waste which arises from a type 2 NORM industrial activity, or

(c) is contaminated by a substance or article described in paragraph (a) or (b), including where such contamination occurs indirectly through another contaminated substance or article.

(2) A substance or article to which this sub-paragraph applies is radioactive material or radioactive waste where it has a concentration of radioactivity which exceeds the following values in Table 1—

(a) for a substance or article which is a solid or a substance which is a relevant liquid, the value specified in column 2,

(b) for a substance which is any other liquid, the value specified in column 3, or

(c) for a substance which is a gas, the value specified in column 4.

Commencement

Sch. 23(2) para. 4(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 4(1)-(2)(c): England, Wales

Law In Force

5. Processed radionuclides of natural terrestrial or cosmic origin

A substance or article is radioactive material or radioactive waste where—

(a) the substance or article contains one or more of the radionuclides of natural terrestrial or cosmic origin which are listed in column 1 of Table 2,

(b) the substance or article—

(i) is processed or is intended to be processed for the radioactive, fissile or fertile properties of those radionuclides, or

(ii) is contaminated by a substance or article to which paragraph (i) applies, including where such contamination occurs indirectly through another contaminated substance or article, and

(c) the substance or article is—

(i) a solid or a relevant liquid and it has a concentration of radioactivity which exceeds the value specified in column 2 of Table 2, or

(ii) any other liquid or a gas.

Commencement

Sch. 23(2) para. 5(a)-(c)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 5(a)-(c)(ii): England, Wales

Law In Force

6. Radionuclides not of natural terrestrial or cosmic origin

A substance or article which contains one or more radionuclides that are not of natural terrestrial or cosmic origin is radioactive material or radioactive waste where—

(a) the substance or article is a solid or a relevant liquid and it has a concentration of radioactivity which exceeds the value specified in column 2 of Table 2, or

(b) the substance is any other liquid or a gas.

Commencement

Sch. 23(2) para. 6(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 6(a)-(b): England, Wales

Law In Force

[6A. Dilution to reduce concentration of radioactivity

For the purposes of paragraphs 4, 5 and 6, a substance or article is to be treated as having a concentration of radioactivity which exceeds the value referred to in paragraph 4(2), 5(c)(i) or 6(a), if a person has diluted the substance or article with the intention of ensuring that its concentration of radioactivity does not exceed that value.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Extent

Sch. 23(2) para. 6A: (extent not available)

Law In Force

7. Radionuclides with a short half-life

A substance or article is not radioactive material or radioactive waste where none of the radionuclides which it contains or which it consists of has a half-life exceeding 100 seconds.

Commencement

Sch. 23(2) para. 7: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 7: England, Wales

Law In Force

8.— Radionuclides not of natural terrestrial or cosmic origin in background radioactivity

(1) A substance or article is not radioactive material or radioactive waste where—

(a) the substance or article is contaminated as a result of a climatic process, or a combination of such processes, by radionuclides which—

(i) are not of natural terrestrial or cosmic origin, and

(ii) are not present in the substance or article at a concentration that exceeds that found normally in such a substance or article in the United Kingdom, and

(b) in the absence of such contamination, the substance or article would not otherwise be radioactive material or radioactive waste under this Schedule.

(2) In this paragraph, a "climatic process" includes wind, precipitation and the general circulation of the atmosphere and oceans.

Commencement

Sch. 23(2) para. 8(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 8(1)-(2): England, Wales

Law In Force

9.— Contaminated substances or articles

(1) Subject to sub-paragraph (2), a substance or article is not radioactive material where—

(a) the substance or article is contaminated, but has not been so contaminated with the intention of utilising its radioactive, fissile or fertile properties, and

(b) in the absence of such contamination, the substance or article would not otherwise be radioactive material under this Schedule.

(2) Sub-paragraph (1) only applies while the substance or article is kept on the premises on which the contamination occurred.

Commencement

Sch. 23(2) para. 9(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 9(1)-(2): England, Wales

Law In Force

[9A. Historic radium contamination

A substance or article is not radioactive material or radioactive waste where the substance or article arises from the remediation of land contaminated by radium and—

(a) the substance or article contains Ra-226 or its progeny;

(b) in the absence of Ra-226 or its progeny, the substance or article would not otherwise be radioactive material or radioactive waste under this Schedule;

(c) the contamination occurred prior to 13th May 2000; and

(d) the concentration of Ra-226 or any of its progeny does not exceed the following values—

(i) for a substance or article which is a solid or a substance which is a relevant liquid, 1 Bq/g;

(ii) for a substance which is any other liquid, 1 Bq/1; or

(iii) for a substance which is a gas, 0.01 Bq/m^3.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Extent

Sch. 23(2) para. 9A(a)-(d)(iii): England, Wales

Law In Force

10.— Substances or articles after disposal

(1) A substance or article is not radioactive material or radioactive waste during the excluded period where—

(a) the substance or article has been disposed of lawfully, and at the time of the disposal no further act of disposal is intended in respect of it, or

(b) the substance or article—

(i) is contaminated by a substance or article to which paragraph (a) applies, including where such contamination occurs indirectly through another contaminated substance or article,

(ii) in the absence of such contamination, would not otherwise be radioactive material or radioactive waste under this Schedule, and

(iii) is not contaminated with the intention of using its radioactive, fissile or fertile properties.

(2) In sub-paragraph (1), "the excluded period" means the period—

(a) beginning at the relevant start time, and

(b) ending at the time that there is an increase in the radiation exposure of the public or of any plant or animal which is caused by the substance or article being subject to a process after the relevant start time.

(3) Sub-paragraph (4) applies to a substance or article which—

(a) is disposed of by burial (whether underground or otherwise) on premises in respect of which an environmental permit in respect of the radioactive substances activity in paragraph 11(2)(b) is held at the time of disposal,

(b) is disposed of in accordance with that permit, and

(c) is solid at the time of the disposal.

(4) Where this sub-paragraph applies, the relevant start time is—

(a) where the environmental permit in sub-paragraph (3)(a) is surrendered, the time at which the surrender takes effect, or

(b) where that permit is revoked and—

(i) regulation 23 applies to that permit, the time at which the regulator issues the certificate described in paragraph (4) or (6) of that regulation, or

(ii) regulation 23 does not apply to that permit, the time at which the revocation takes effect.

(5) Sub-paragraph (6) applies to a substance or article ("A") described in sub-paragraph (1)(b), where the substance or article ("B") which contaminates it (directly or indirectly) is described in sub-paragraph (3).

(6) Where this sub-paragraph applies, the relevant start time for A is the later of—

(a) the time at which A becomes contaminated, and

(b) the relevant start time for B.

(7) In respect of a substance or article ("C") to which sub-paragraphs (4) and (6) do not apply, the relevant start time is—

(a) where sub-paragraph (1)(a) applies to C, the time at which C is disposed of;

(b) where sub-paragraph (1)(b) applies to C, the time at which C becomes contaminated.

Commencement

Sch. 23(2) para. 10(1)-(7)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 10(1)-(7)(b): England, Wales

Law In Force

11.— Interpretation: radioactive substances activity

(1) Subject to paragraphs 13 and 14, "radioactive substances activity" means an activity described in sub-paragraph (2), (4), (5) or (6).

(2) A radioactive substances activity is carried on where a person uses premises for the purposes of an undertaking and that person—

(a) except where sub-paragraph (5) applies, keeps or uses radioactive material on those premises,

(b) disposes of radioactive waste on or from those premises, or

(c) accumulates radioactive waste on those premises,

knowing or having reasonable grounds for believing the material or waste to be radioactive material or radioactive waste.

(3) For the purposes of sub-paragraph (2)(c), where—

(a) radioactive material is produced, kept or used on any premises,

(b) any substance arising from the production, keeping or use of that material is accumulated in a part of the premises appropriated for the purpose, and

(c) that substance is retained there for a period of not less than 3 months,

that substance, unless the contrary is proved, is presumed to be radioactive waste.

(4) A radioactive substances activity is carried on where, in the course of a person carrying on an undertaking, that person—

(a) receives radioactive waste for the purposes of disposing of that waste, and

(b) knows or has reasonable grounds for believing the waste to be radioactive waste.

(5) A radioactive substances activity is carried on where a person keeps or uses mobile radioactive apparatus for—

(a) testing, measuring or otherwise investigating any of the characteristics of substances or articles, or

(b) releasing quantities of radioactive material into the environment or introducing such material into organisms.

(6) A radioactive substances activity is carried on where a person carries out intrusive investigation work or other excavation, construction or building work—

(a) to determine the suitability of any premises, or

(b) to enable the use of any premises,

as a place that may be used wholly or substantially for underground disposal.

(7) In sub-paragraph (6)—

"intrusive investigation work" means the drilling of boreholes into, or excavation of, sub-soil or rock to determine geological or hydrogeological conditions;

"underground disposal" means—

(a) the disposal of solid radioactive waste in an engineered facility, or in part of an engineered facility, which is beneath the surface of the ground, and

(b) where the natural environment which surrounds the facility acts, in combination with any engineered measures, to inhibit the transit of radionuclides from the facility to the surface,

and does not include the disposal of radioactive waste in a facility which is beneath the surface of the ground only by virtue of the placing of rocks or soil above it.

Commencement

Sch. 23(2) para. 11(1)-(7) definition of "underground disposal" (b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 11(1)-(7) definition of "underground disposal" (b): England, Wales

Law In Force

12.— Discharge of functions: mobile radioactive apparatus

(1) In the case of an activity described in paragraph 11(5), if the principal place where the apparatus mentioned in that sub-paragraph is kept when not in use is in England or Wales, functions in relation to the activity are exercisable by the appropriate agency in whose area the principal place of keeping is.

(2) But sub-paragraph (1) does not apply to functions under regulations 36, 37, 38 and 42 (which are exercisable in relation to the activity in accordance with regulation 32(1)).

Commencement

Sch. 23(2) para. 12(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 12(1)-(2): England, Wales

Law In Force

13.— Nuclear sites

(1) Paragraph 11(2)(a) does not apply to the activity carried on by a licensee of a nuclear site on any premises situated on that site at any time—

(a) while a nuclear site licence is in force in respect of that site, and

(b) after the revocation or surrender of such a licence but before the period of responsibility of the licensee has come to an end.

(2) In respect of any premises which—

(a) are situated on a nuclear site, but

(b) have ceased to be used for the purposes of an undertaking carried on by the licensee,

paragraph 11(2)(b) applies to those premises as if the premises were used for the purposes of an undertaking carried on by the licensee.

(3) Paragraph 11(2)(c) does not apply to the accumulation of radioactive waste on any premises situated on a nuclear site.

Commencement

Sch. 23(2) para. 13(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 13(1)-(3): England, Wales

Law In Force

14. Vehicles, vessels and aircraft

In determining whether any radioactive material is kept or used on any premises, no account must be taken of any radioactive material kept or used in or on any railway vehicle, road vehicle, vessel or aircraft if—

(a) the vehicle, vessel or aircraft is on the premises in the course of a journey, or

(b) in the case of a vessel which is on those premises otherwise than in the normal course of a journey, the material is used in propelling the vessel or is kept in or on the vessel for use in propelling it.

Commencement

Sch. 23(2) para. 14(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(2) para. 14(a)-(b): England, Wales

PART 3

Tables of radionuclides and summation rules

Law In Force

1.— Table 1

(1) The Table 1 referred to in paragraph 4 of Part 2 (NORM industrial activities) is—

Table 1

Concentration of radionuclides: NORM industrial activities

Radionuclide	*Solid or relevant liquid concentration in becquerels per gram (Bq/g)*	*Any other liquid concentration in becque*
U-238sec[1]	[1] [2]	0.1
U-238+	5	10

Radionuclide	*Solid or relevant liquid concentration in becquerels per gram (Bq/g)*	*Any other liquid concentration in becque*
U-234	5	10
Th-230	10	10
Ra-226+	[1] [2]	1
Pb-210+	5	0.1
Po-210	5	0.1
U-235sec	1	0.1
U-235+	5	10
Pa-231	5	1
Ac-227+	1	0.1
Th-232sec	[1] [2]	0.1
Th-232	5	10
Ra-228+	1	0.1
Th-228+	[1] [2]	1

(2) The Table 1 summation rule in respect of column 2, 3 or 4 means the sum of the quotients A/B where—

(a) "A" means the concentration of each radionuclide listed in column 1 of Table 1 that is present in the substance or article, and

(b) "B" means the concentration of that radionuclide specified in column 2, 3 or 4 (as appropriate) of Table 1.

Notes

[1] For the meaning of 'sec' and '+' in this Part, see paragraph 3.

[2] Word substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(3) para. 1(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(3) para. 1(1)-(2)(b): England, Wales

Law In Force

2.— Table 2

(1) The Table 2 referred to in paragraph 5 of Part 2 (processed radionuclides of natural terrestrial or cosmic origin) and paragraph 6 of that Part (radionuclides not of natural terrestrial or cosmic origin) is— **[**

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
H-3	10^2
Be-7	10

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
C-14	10
F-18	10
Na-22	0.1
Na-24	1
Si-31	10^3
P-32	10^3
P-33	10^3
S-35	10^2
Cl-36	1
Cl-38	10
K-42	10^2
K-43	10
Ca-45	10^2
Ca-47	10
Sc-46	0.1
Sc-47	10^2
Sc-48	1
V-48	1
Cr-51	10^2
Mn-51	10
Mn-52	1
Mn-52m	10
Mn-53	10^2
Mn-54	0.1
Mn-56	10
Fe-52+	10
Fe-55	10^3
Fe-59	1
Co-55	10
Co-56	0.1
Co-57	1
Co-58	1
Co-58m	10^4
Co-60	0.1
Co-60m	10^3
Co-61	10^2
Co-62m	10
Ni-59	10^2
Ni-63	10^2
Ni-65	10
Cu-64	10^2

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
Zn-65	0.1
Zn-69	10^3
Zn-69m+	10
Ga-72	10
Ge-71	10^4
As-73	10^3
As-74	10
As-76	10
As-77	10^3
Se-75	1
Br-82	1
Rb-86	10^2
Sr-85	1
Sr-85m	10^2
Sr-87m	10^2
Sr-89	10^3
Sr-90+	1
Sr-91+	10
Sr-92	10
Y-90	10^3
Y-91	10^2
Y-91m	10^2
Y-92	10^2
Y-93	10^2
Zr-93	10
Zr-95+	1
Zr-97+	10
Nb-93m	10
Nb-94	0.1
Nb-95	1
Nb-97+	10
Nb-98	10
Mo-90	10
Mo-93	10
Mo-99+	10
Mo-101+	10
Tc-96	1
Tc-96m	10^3
Tc-97	10
Tc-97m	10^2
Tc-99	1

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
Tc-99m	10^2
Ru-97	10
Ru-103+	1
Ru-105+	10
Ru-106+	0.1
Rh-103m	10^4
Rh-105	10^2
Pd-103+	10^3
Pd-109+	10^2
Ag-105	1
Ag-108m+	0.1
Ag-110m+	0.1
Ag-111	10^2
Cd-109+	1
Cd-115+	10
Cd-115m+	10^2
In-111	10
In-113m	10^2
In-114m+	10
In-115m	10^2
Sn-113+	1
Sn-125	10
Sb-122	10
Sb-124	1
Sb-125+	0.1
Te-123m	1
Te-125m	10^3
Te-127	10^3
Te-127m+	10
Te-129	10^2
Te-129m+	10
Te-131	10^2
Te-131m+	10
Te-132+	1
Te-133+	1
Te-133m+	1
Te-134	10
I-123	10^2
I-125	10^2
I-126	10
I-129	0.01

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
I-130	10
I-131+	1
I-132	10
I-133	10
I-134	10
I-135	10
Cs-129	10
Cs-131	10^3
Cs-132	10
Cs-134	0.1
Cs-134m	10^3
Cs-135	10^2
Cs-136	1
Cs-137+	1
Cs-138	10
Ba-131	10
Ba-140	1
La-140	1
Ce-139	1
Ce-141	10^2
Ce-143	10
Ce-144+	10
Pr-142	10^2
Pr-143	10^3
Nd-147	10^2
Nd-149	10^2
Pm-147	10^3
Pm-149	10^3
Sm-151	10^3
Sm-153	10^2
Eu-152	0.1
Eu-152m	10^2
Eu-154	0.1
Eu-155	1
Gd-153	10
Gd-159	10^2
Tb-160	1
Dy-165	10^3
Dy-166	10^2
Ho-166	10^2
Er-169	10^3

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
Er-171	10^2
Tm-170	10^2
Tm-171	10^3
Yb-175	10^2
Lu-177	10^2
Hf-181	1
Ta-182	0.1
W-181	10
W-185	10^3
W-187	10
Re-186	10^3
Re-188	10^2
Os-185	1
Os-191	10^2
Os-191m	10^3
Os-193	10^2
Ir-190	1
Ir-192	1
Ir-194	10^2
Pt-191	10
Pt-193m	10^3
Pt-197	10^3
Pt-197m	10^2
Au-198	10
Au-199	10^2
Hg-197	10^2
Hg-197m	10^2
Hg-203	10
Tl-200	10
Tl-201	10^2
Tl-202	10
Tl-204	1
Pb-203	10
Pb-210+	0.01
Pb-212+	1
Bi-206	1
Bi-207	0.1
Bi-210	10
Bi-212+	1
Po-203	10
Po-205	10

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
Po-207	10
Po-210	0.01
At-211	10^3
Ra-223+	1
Ra-224+	1
Ra-225	10
Ra-226+	0.01
Ra-227	10^2
Ra-228+	0.01
Ac-227+	0.01
Ac-228	1
Th-226+	10^2
Th-227	1
Th-228+	0.1
Th-229+	0.1
Th-230	0.1
Th-231	10^2
Th-232	0.01
Th-232+	0.01
Th-232sec	0.01
Th-234+	10
Pa-230	10
Pa-231	0.01
Pa-233	10
U-230+	1
U-231	10^2
U-232+	0.1
U-233	1
U-234	1
U-235+	1
U-235sec	0.01
U-236	10
U-237	10^2
U-238+	1
U-238sec	0.01
U-239	10^2
U-240+	10^2
Np-237+	1
Np-239	10^2
Np-240	10
Pu-234	10^2

Radionuclide	***Concentration in becquerels per gram (Bq/g)***
Pu-235	10^2
Pu-236	1
Pu-237	10^2
Pu-238	0.1
Pu-239	0.1
Pu-240	0.1
Pu-241	10
Pu-242	0.1
Pu-243	10^3
Pu-244+	0.1
Am-241	0.1
Am-242	10^3
Am-242m+	0.1
Am-243+	0.1
Cm-242	10
Cm-243	1
Cm-244	1
Cm-245	0.1
Cm-246	0.1
Cm-247+	0.1
Cm-248	0.1
Bk-249	10^2
Cf-246	10^3
Cf-248	1
Cf-249	0.1
Cf-250	1
Cf-251	0.1
Cf-252	1
Cf-253	10^2
Cf-253+	1
Cf-254	1
Es-253	10^2
Es-254+	0.1
Es-254m+	10
Fm-254	10^4
Fm-255	10^2
Any other solid or relevant liquid radionuclide that is not of natural terrestrial or cosmic origin	0.01 or that concentration which gives rise to a dose to a member of the public of 10 microsieverts per year calculated by reference to the International Atomic Energy Agency publication "Application of the Concepts of Exclusion,

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
	Exemption and Clearance", IAEA Safety Standards Series No. RS-G-1.7[2] .

]1

(2) The Table 2 column 2 summation rule means the sum of the quotients A/B where—

(a) "A" means the concentration of each radionuclide listed in column 1 of Table 2 that is present in the substance or article, and

(b) "B" means the concentration of that radionuclide specified in column 2 of Table 2.

Notes

1 Table substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

2 Available from www-pub.iaea.org. A hard copy of this publication can be obtained by writing to: Nuclear Decommissioning and Radioactive Waste Policy Team, Department for Business, Energy & Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

Commencement

Sch. 23(3) para. 2(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(3) para. 2(1)-(2)(b): England, Wales

Law In Force

3. References in Table 1 and Table 2 to + and sec

Where any radionuclide carries the suffix "+" or "sec" in Table 1 or Table 2—

(a) that radionuclide represents the parent radionuclide in secular equilibrium with the corresponding daughter radionuclides which are identified in column 2 of Table 3 in respect of that parent radionuclide, and

(b) a concentration value given in a table in this Part in respect of such a parent radionuclide is the value for the parent radionuclide alone, but already takes into account the daughter radionuclides present.

Commencement

Sch. 23(3) para. 3(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(3) para. 3(a)-(b): England, Wales

Law In Force

4. Table 3

The Table 3 referred to in paragraph 3 is—

Table 3

Radionuclides in secular equilibrium

Parent radionuclide	*Daughter radionuclides*
Fe-52+	Mn-52m
Zn-69m+	Zn-69
Sr-90+	Y-90
Sr-91+	Y-91m
Zr-95+	Nb-95m
Zr-97+	Nb-97m, Nb-97
Nb-97+	Nb-97m
Mo-99+	Tc-99m
Mo-101+	Tc-101
Ru-103+	Rh-103m
Ru-105+	Rh-105m
Ru-106+	Rh-106
Pd-103+	Rh-103m
Pd-109+	Ag-109m
Ag-108m+	Ag-108
Ag-110m+	Ag-110
Cd-109+	Ag-109m
Cd-115+	In-115m
Cd-115m+	In-115m
In-114m+	In-114
Sn-113+	In-113m
Sb-125+	Te-125m
Te-127m+	Te-127
Te-129m+	Te-129
Te-131m+	Te-131
Te-132+	I-132
Te-133+	I-133, Xe-133m, Xe-133
Te-133m+	Te-133, I-133, Xe-133m, Xe-133
I-131+	Xe-131m
Cs-137+	Ba-137m
Ce-144+	Pr-144, Pr-144m
Pb-210+	Bi-210, Po-210
Pb-212+	Bi-212, Tl-208
Bi-212+	Tl-208
Ra-223+	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224+	Rn-220, Po-216, Pb-212, Bi-212, Tl-208
Ra-226+	Rn-222, Po-218, Pb-214, Bi-214, Po-214

Parent radionuclide	*Daughter radionuclides*
Ra-228+	Ac-228
Ac-227+	Th-227, Fr-223, Ra-223, Rn-219, Po-215, Pb-211, Bi-211, Tl-207, Po-211
Th-226+	Ra-222, Rn-218, Po-214
Th-228+	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208
Th-229+	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Tl-209, Pb-209
Th-232+	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208
Th-232sec	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208
Th-234+	Pa-234m, Pa-234
U-230+	Th-226, Ra-222, Rn-218, Po-214
U-232+	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208
U-235+	Th-231
U-235sec	Th-231, Pa-231, Ac-227, Th-227, Fr-223, Ra-223, Rn-219, Po-215, Pb-211, Bi-211, Tl-207, Po-211
U-238+	Th-234, Pa-234m, Pa-234
U-238sec	Th-234, Pa-234m, Pa-234, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
U-240+	Np-240m, Np-240
Np-237+	Pa-233
Pu-244+	U-240, Np-240m, Np-240
Am-242m+	Np-238
Am-243+	Np-239
Cm-247+	Pu-243
Cf-253+	Cm-249
Es-254+	Bk-250
Es-254m+	Fm-254

Commencement

Sch. 23(3) para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(3) para. 4: England, Wales

PART 4

The Basic Safety Standards Directive

SECTION 1

Exposures and doses

Law In Force

1. Optimisation and dose limits

In respect of a radioactive substances activity that relates to radioactive waste, the regulator must exercise its relevant functions to ensure that—

(a) all exposures to ionising radiation of any member of the public and of the population as a whole resulting from the disposal of radioactive waste are kept as low as reasonably achievable, taking into account economic and social factors, and

(b) the sum of the doses resulting from the exposure of any member of the public to ionising radiation does not exceed the dose limits set out in **[** Article 12 **]** [1] of the Basic Safety Standards Directive subject to the exclusions set out in **[** Article 5(c) **]** [1] of that Directive.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(4)(s.) para. 1(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(4)(s.) para. 1(a)-(b): England, Wales

Law In Force

2.— Specific dose limits and calculation

(1) In exercising those relevant functions in relation to the planning stage of radiation protection, the regulator must have regard to the following maximum doses to individuals which may result from a defined source—

(a) 0.3 millisieverts per year from any source **[…]** [1] , or

(b) 0.5 millisieverts per year from the discharges from any single site.

[(2) In exercising those relevant functions, the regulator must observe the requirements of the following provisions—

(a) when estimating effective dose and equivalent dose—

(i) from external exposure, chapters 4 and 5 of International Commission on Radiological Protection Publication 116[3] ; and

(ii) from internal exposure, chapter 1 of International Commission on Radiological Protection Publication 119[4] ; and

(b) in estimating population doses, Article 66 of the Basic Safety Standards Directive.

] [2]

Notes

[1] Words revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] Substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[3] Available from www.icpr.org. A hard copy of this publication can be obtained by writing to: SAGE Publications Ltd, 1 Oliver's Yard, 55 City Road, London, EC1Y 1SP.

[4] Available from www.icpr.org. A hard copy of this publication can be obtained by writing to: Nuclear Decommissioning and Radioactive Waste Policy Team, Department for Business, Energy & Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

Commencement

Sch. 23(4)(s.) para. 2(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(4)(s.) para. 2(1)-(2)(a), (2)(b)-(2)(c): England, Wales

Sch. 23(4)(s.) para. 2(2)(a)(i)-(2)(a)(ii): (extent not available)

SECTION 2

Interventions

Law In Force

3.— Radioactive waste: power of the Secretary of State to provide facilities for disposal or accumulation

(1) If it appears to the Secretary of State that adequate facilities are not available for the safe disposal or accumulation of radioactive waste, the Secretary of State may—

(a) provide such facilities, or

(b) make arrangements for their provision by such persons as the Secretary of State may think fit.

(2) Before exercising the power under sub-paragraph (1), the Secretary of State must consult with—

(a) any local authority in whose area the facilities would be situated, and

(b) such other public or local authorities (if any) as appear to the Secretary of State to be proper to be consulted.

(3) Reasonable charges for the use of any facilities provided under sub-paragraph (1) may be made by—

(a) the Secretary of State, or

(b) the person providing such facilities, unless the arrangements made by the Secretary of State with that person provide to the contrary.

Commencement

Sch. 23(4)(s. a) para. 3(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(4)(s. a) para. 3(1)-(3)(b): England, Wales

Law In Force

4.— Radioactive waste: power of disposal by the regulator

(1) Sub-paragraph (2) applies if there is radioactive waste on any premises and the regulator is satisfied that the waste ought to be disposed of but that it is unlikely that the waste will be lawfully disposed of—

(a) because the premises are unoccupied,
(b) because the occupier is absent or insolvent, or
(c) for any other reason.

(2) The regulator may dispose of the waste and recover any expenses it reasonably incurs in that disposal from—

(a) the occupier of the premises;
(b) if the premises are unoccupied, the owner of the premises.

(3) In sub-paragraph (2)—

(a) "owner" has the same meaning as in section 343 of the Public Health Act 1936, and
(b) the provisions of section 294 of that Act[1] (which limits the liability of owners who are only agents or trustees) apply but as if reference in that section to a council recovering expenses under that Act were to the regulator recovering expenses under sub-paragraph (2).

Notes

[1] Section 294 was modified, in relation to steps required to be taken by certain notices, by S.I. 1990/1519, 1992/656 and 1492.

Commencement

Sch. 23(4)(s. a) para. 4(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(4)(s. a) para. 4(1)-(3)(b): England, Wales

SECTION 3

[Miscellaneous duties of the regulator] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Law In Force

[5. Inspection programmes

When establishing an inspection programme for the purposes of regulation 34(2) (periodic inspections of regulated facilities) in relation to radioactive substance activities, the regulator must take into account the potential magnitude and nature of the hazard associated with such activities, a general assessment of radiation protection issues in the activities, and the state of compliance with the requirements of these Regulations.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Extent

Sch. 23(4)(s. b) para. 5: (extent not available)

Law In Force

[6. Inspection findings

Where a regulator makes an inspection of a regulated facility that is a radioactive substances activity, the regulator must—

(a) record the findings of that inspection; and

(b) communicate those findings to the operator of the regulated facility.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Extent

Sch. 23(4)(s. b) para. 6(a)-(b): England, Wales

Law In Force

[7.— Radioactive waste: requirements to be imposed on permit holders

(1) The regulator must require a person who holds an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) (disposing of waste) or (c) (accumulating waste) of Part 2 of this Schedule to—

(a) achieve and maintain an optimal level of protection of members of the public;

(b) accept into service adequate equipment and procedures for measuring and assessing exposure of members of the public and radioactive contamination of the environment;

(c) check the effectiveness and maintenance of equipment as referred to in paragraph (b) and ensure the regular calibration of measuring instruments; and

(d) seek advice from a radioactive waste adviser in the performance of the tasks referred to in paragraphs (a), (b) and (c).

[(1A) Paragraph (1)(d) does not apply in relation to waste that is a sealed source. **]** [2]

[(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] .

] [3]

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] Added by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(6)(a) (January 7, 2019)

[3] Substituted by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(6)(b) (January 7, 2019)

[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.

Extent

Sch. 23(4)(s. b) para. 7(1)-(1)(d), (2)-(2) definition of "sealed source": England, Wales

Sch. 23(4)(s. b) para. 7(1A): (extent not available)

Law In Force

[8. Dilution of radioactive material and radioactive waste

In exercising its relevant functions in relation to a radioactive substances activity, the regulator must observe the requirements of Article 30(4) of the Basic Safety Standards Directive.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Extent

Sch. 23(4)(s. b) para. 8: (extent not available)

Law In Force

[9.— Monitoring of discharges

(1) This paragraph applies where the regulator is exercising relevant functions in relation to a radioactive substances activity where there are radioactive discharges authorised by an environmental permit.

(2) The regulator must impose appropriate environmental permit conditions concerning—

(a) the monitoring, or the evaluation, of radioactive airborne or aqueous discharges into the environment; and

(b) the reporting to the regulator of the results of such monitoring or evaluation.

(3) For the purposes of sub-paragraph (2), where the regulator is exercising relevant functions in relation to a nuclear power station or nuclear reprocessing plant, the environmental permit conditions imposed must require the monitoring of radioactive discharges and reporting to the regulator of such information on radioactive discharges as the appropriate authority directs.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Extent

Sch. 23(4)(s. b) para. 9(1)-(3): England, Wales

PART 5

[The control of high-activity and other sources] [1]

Notes

[1] Heading substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

SECTION 1

Security of sources

Law In Force

1. Interpretation

In this Part—

"high-activity or similar source" means—

(a) a high-activity source, or

(b) such other sealed source which, in the opinion of the regulator, is of a similar level of potential hazard to a high-activity source;

[" high-activity source" means a sealed source for which the activity of the contained radionuclide is equal to or exceeds the relevant activity value laid down in Annex III of the Basic Safety Standards Directive; **]** [1]

"orphan source" has the same meaning as in the **[** Basic Safety Standards Directive **]** [2];

"sealed source" has the same meaning as in the **[** Basic Safety Standards Directive **]** [2].

Notes

[1] Definition substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(5)(s.) para. 1 definition of "high activity or similar source"- definition of "sealed source": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(5)(s.) para. 1 definition of "high activity or similar source"- definition of "sealed source": England, Wales

Law In Force

2.— Site security: inspection

(1) In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with sub-paragraph (3) where a high-activity or similar source is, or will be, kept, used, disposed of or accumulated on any premises.

(2) Sub-paragraph (1) does not apply where the premises are, or are part of, a nuclear site.

(3) In considering if the measures taken, or to be taken, by the operator ensure the adequate security of any premises, the regulator must where appropriate inspect those premises.

(4) Where the regulator inspects any premises under sub-paragraph (3), it may be accompanied by such other persons as are appropriate to assist it in assessing the measures.

(5) An operator must permit the regulator (and any person accompanying it) reasonable access to any premises the regulator wishes to inspect under sub-paragraph (3).

(6) If the operator fails to comply with sub-paragraph (5), the regulator may refuse the application or revoke the permit insofar as it relates to the sources referred to in sub-paragraph (1).

Commencement

Sch. 23(5)(s.) para. 2(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(5)(s.) para. 2(1)-(6): England, Wales

Law In Force

3.— Site security: security measures and advice

(1) In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with sub-paragraph (2) where a high-activity or similar source is, or will be, kept, used, disposed of or accumulated on any premises.

(2) The regulator—

(a) must satisfy itself that there are in place measures concerning site security, including the security measures in sub-paragraph (3), as are appropriate to the source and premises in question,

(b) where it considers it appropriate to do so, must consult the police, security services or other appropriate persons on site security,

(c) must have regard to any advice given by them, if it is issued within such time as the regulator believes is reasonable before it exercises a relevant function, and

(d) must impose appropriate environmental permit conditions concerning site security.

(3) The security measures referred to in sub-paragraph (2)(a) are—

(a) measures to ensure the physical security of the premises, including the installation of alarm and detection systems, and the retaining of documentary evidence of those measures,

(b) measures, which are evidenced in writing—

(i) to prevent unauthorised access to, or loss or theft of, a high-activity or similar source,

(ii) to detect such matters, and

(iii) to review and enhance the physical security of the premises in response to any increased risk of unauthorised access, loss or theft,

(c) written procedures to ensure that before a person is authorised to have access to a high-activity or similar source—

(i) that person has passed checks to verify their identity, and

(ii) satisfactory written references have been obtained which confirm, as far as reasonably practicable, that there is no information to indicate that the person presents any security risk to the sources, and

(d) measures to keep secure, and prevent unauthorised access to, information relating to—

(i) a high-activity or similar source, and

(ii) the measures referred to in paragraphs (a), (b) and (c).

Commencement

Sch. 23(5)(s.) para. 3(1)-(3)(d)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(5)(s.) para. 3(1)-(3)(d)(ii): England, Wales

SECTION 2

Advice and assistance in relation to orphan sources

Law In Force

4.— Advice and assistance in respect of orphan sources

(1) The relevant person must ensure that specialised technical advice and assistance is promptly made available to persons who—

(a) are not normally involved in operations subject to radiation protection requirements, and

(b) suspect the presence of an orphan source.

(2) The relevant person must ensure that the primary aim of such advice and assistance is—

(a) the safety of the source, and

(b) protecting the public and workers from radiation.

(3) The relevant person means—

(a) in relation to the protection of workers, the Secretary of State;

(b) in relation to the protection of the public (other than workers)—

(i) in England, the Secretary of State;

(ii) in Wales, the Welsh Ministers.

Commencement

Sch. 23(5)(s. a) para. 4(1)-(3)(b)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(5)(s. a) para. 4(1)-(3)(b)(ii): England, Wales

SECTION 3

Exercise of relevant functions and matters in relation to […][1] sources

Notes

[1] Word revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Law In Force

[5.

In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with Articles 85 to 89 and 91 of the Basic Safety Standards Directive.

] [1]

Notes

[1] Substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(5)(s. b) para. 5(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(5)(s. b) para. 5(1)-(2): England, Wales

Law In Force

[6.

In relation to a high-activity source, the regulator must keep records of those matters—

(a) required by Article 90 of the Basic Safety Standards Directive, and

(b) notified to it under Article 91(1) of that Directive.

] [1]

Notes

[1] Substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(5)(s. b) para. 6(a)-(b)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(5)(s. b) para. 6(a)-(b)(ii): England, Wales

Repealed

7.— […][1]

Notes

[1] Revoked by Ionising Radiations Regulations 2017/1075 Sch.9 para.17 (January 1, 2018: revocation has effect subject to transitional provisions and savings specified in SI 2017/1075 reg.41 and Sch.8)

Law In Force

8.— Orphan sources

(1) The regulator must—

(a) be prepared, or have made provision (including the assignment of responsibilities), to **[** control and **]** [1] recover any orphan source, and

(b) have drawn up appropriate response plans and measures.

(2) The regulator may recover any expenses reasonably incurred by it in the recovery and disposal of an orphan source from—

(a) the person carrying on the radioactive substances activity involving that source, or

(b) the occupier or owner of the premises where the source is located.

(3) In relation to sub-paragraph (2)—

(a) "owner" has the same meaning as in section 343 of the Public Health Act 1936, and

(b) the provisions of section 294 of that Act (which limits the liability of owners who are only agents or trustees) apply but as if reference in that section to a council recovering expenses under that Act were to the regulator recovering expenses under sub-paragraph (2).

Notes

[1] Words inserted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(5)(s. b) para. 8(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(5)(s. b) para. 8(1)-(3)(b): England, Wales

PART 6

Radioactive substances activity exemptions

SECTION 1

General

Law In Force

1. Interpretation

In this Part—

"Ba-137m eluting source" means a source which consists of Cs-137 in a sealed container which is designed and constructed to allow the elution of Ba-137m, and which is radioactive material or radioactive waste solely because of that Cs-137;

"Class A gaseous tritium light device" means a gaseous tritium light device where the activity of the device does not exceed 2 x 10^{10} Bq of tritium;

"Class B gaseous tritium light device" means a gaseous tritium light device which is installed or intended to be installed on premises and where the activity—

(a) in each sealed container in the device does not exceed 8 x 10^{10} Bq of tritium, and

(b) of the device does not exceed 1 x 10^{12} Bq of tritium;

"Class C gaseous tritium light device" means a gaseous tritium light device installed or intended to be installed—

(a) in a vessel or aircraft, or

(b) in a vehicle or other equipment used or intended to be used by the armed forces of the Crown;

"disposal permit" means—

(a) an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule, or

(b) an authorisation under the 1993 Act to dispose of radioactive waste held in respect of premises situated in Northern Ireland or Scotland;

"electrodeposited source" means an article where radionuclides are electrodeposited onto a metal substrate and which is radioactive material or radioactive waste solely because it contains Ni-63 or Fe-55;

"gaseous tritium light device" means a sealed source in a device which is an illuminant, instrument, sign or indicator which—

(a) incorporates tritium in one or more sealed containers constructed to prevent dispersion of that tritium in normal use, and

(b) is radioactive material solely because it contains that tritium;

["high-activity or similar source" means—

(a) a high-activity source, or

(b) such other sealed source which, in the opinion of the regulator, is of a similar level of potential hazard to a high-activity source;

"high-activity source" means a sealed source for which the activity of the contained radionuclide is equal to or exceeds the relevant activity value laid down in Annex III of the Basic Safety Standards Directive; **]** [1]

"luminised article" means an article which is made wholly or partly from a luminescent substance in the form of a film or a paint and which—

(a) is radioactive material or radioactive waste solely because it contains Pm-147 or H-3, and

(b) is not a sealed source;

"management", in respect of waste, means—

(a) the preparation by checking, cleaning or repairing that waste for its re-use without further processing,

(b) the recovery of that waste,

(c) the disposal of that waste, or

(d) the application of any treatment process to that waste which is preparatory to the recovery or disposal of it,

and cognate expressions shall be construed accordingly;

"relevant river" means a river or a part of a river which—

(a) is not a part of the sea, and

(b) at the place and time of any disposal into it of aqueous radioactive waste from a sewage disposal works or directly from premises, has a flow-rate which is not less than $1m^3s^{-1}$;

"relevant sewer" means—

(a) a public sewer, or

(b) a disposal main which leads to a sewage disposal works that—

(i) has the capacity to handle a minimum of $100m^3$ of effluent per day, and

(ii) discharges treated effluent only to the sea or to a relevant river,

and "public sewer" , "disposal main" , "sewage disposal works" and "effluent" have the same meaning as in the Water Industry Act 1991[2] ;

"relevant standard conditions" has the meaning given in paragraph 10;

"sea" includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river;

["sealed source" has the same meaning as in the Basic Safety Standards Directive, excluding such a source where it is an electrodeposited source or a tritium foil source;] [3]

"stored in transit" means the storage in the course of transit of radioactive material or radioactive waste but does not include any storage of such material or waste where it is removed from its container;

"Table 4", ["Table 4A",] [4] "Table 5", "Table 6", "Table 7" or "Table 8" means the table with that number in this Part;

"a tritium foil source" means an article which—

(a) has a mechanically tough surface into which tritium is incorporated, and

(b) is radioactive material or radioactive waste solely because of that tritium;

"uranium or thorium compound" means a substance or article which is radioactive material or radioactive waste solely because it is or contains metallic uranium or thorium or prepared compounds of uranium or thorium, and in respect of which metal or compound the proportion of—

(a) U-235 in the uranium it contains is no more than 0.72% by mass, and

(b) any isotope of thorium it contains is present in the isotopic proportions found in nature;

"waste permitted person" means, in relation to the radioactive waste where the term appears, a person who holds—

(a) an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) or (c) of Part 2 of this Schedule, or

(b) in respect of premises in Scotland or Northern Ireland, an authorisation under section 13 or 14 of the 1993 Act;

"week" means any period of 7 consecutive days;

"year" means a calendar year.

Notes

[1] Definitions inserted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] The definition of "public sewer" was amended by section 99(6) of the Water Act 2003 (c. 37).

[3] Definition substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[4] Words inserted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s.) para. 1 definition of "Ba 137m eluting source"- definition of "year": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s.) para. 1 definition of "Ba 137m eluting source"- definition of "gaseous tritium light device" (b), definition of "luminised article"- definition of "year": England, Wales

Sch. 23(6)(s.) para. 1 definition of "high activity or similar source"- definition of "high activity source": (extent not available)

Law In Force

[2.—

(1) In this Part "NORM waste" means a substance or article which—

(a) is solid radioactive waste under—

(i) paragraph 4 of Part 2 of this Schedule (NORM industrial activities); or

(ii) paragraph 5 of that Part (processed radionuclides of natural terrestrial or cosmic origin) where the waste arises from the remediation of land contaminated by radium and the contamination occurred prior to 13 May 2000;

(b) contains one or more of the radionuclides which are listed in column 1 of Table 4A;

(c) has a concentration of radioactivity that does not exceed the value specified in column 5 of Table 4A in respect of that radionuclide; and

(d) is not waste to which sub-paragraph (3) applies.

(2) In this Part—

"type 1 NORM waste" means NORM waste which—

(a) has a concentration of radioactivity that does not exceed the value specified in column 2 of Table 4A; and

(b) is not waste to which sub-paragraph (4) applies;

"type 2 NORM waste" means NORM waste which has a concentration of radioactivity that exceeds the value specified in column 2 of Table 4A.

(3) This sub-paragraph applies to waste where, prior to the disposal of that waste, a person has diluted it with the intention of ensuring that the concentration of radioactivity does not exceed the value specified in column 5 of Table 4A.

(4) This sub-paragraph applies to waste where, prior to the disposal of that waste, a person has diluted it with the intention of ensuring that the concentration of radioactivity does not exceed the value specified in column 2 of Table 4A.
] [1]

Notes

[1] Substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s.) para. 2(1)-(3)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s.) para. 2(1)-(1)(a), (1)(b), (2)-(2)(a), (2)(b), (3)-(3)(c): England, Wales

Sch. 23(6)(s.) para. 2(1)(a)(i)-(1)(a)(ii), (1)(c)-(1)(d), (2) definition of "type 1 NORM waste"-(2) definition of "type 1 NORM waste" (b), (2) definition of "type 2 NORM waste", (4): (extent not available)

SECTION 2

Exemption for keeping and using radioactive material and accumulating radioactive waste

Law In Force

3.— Exemption for keeping and using radioactive material

(1) A person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(a) of Part 2 of this Schedule in respect of—

(a) subject to sub-paragraph (2), the radioactive material described in paragraph 5, where A complies with the relevant standard conditions and—

(i) in respect of radioactive material described in paragraph 5(1)(a), the condition in paragraph 6(1), and

(ii) in respect of radioactive material described in paragraph 5(1)(b), the condition in paragraph 6(2), or

(b) radioactive material stored in transit.

(2) A is not exempt from the requirement for an environmental permit under sub-paragraph (1)(a) in respect of a high activity source where A takes possession of it.

Commencement

Sch. 23(6)(s. a) para. 3(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. a) para. 3(1)-(2): England, Wales

Law In Force

4.— Exemption for accumulating radioactive waste

(1) This paragraph applies to the following radioactive substances activities—

(a) the activity described in paragraph 11(2)(c) of Part 2 of this Schedule ("Activity A"), and

(b) the activity described in paragraph 11(4) of Part 2 of this Schedule ("Activity B").

(2) In this paragraph, "paragraph 5 waste" means radioactive waste described in paragraph 5.

(3) A person ("A") is exempt from the requirement for an environmental permit to carry on Activity A or B, in respect of radioactive waste which is stored in transit.

(4) Subject to sub-paragraph (5), a person ("B") is exempt from the requirement for an environmental permit to carry on Activity A or B in respect of paragraph 5 waste where—

(a) B receives that waste for accumulation on premises (with a view to its subsequent management by B on those premises),

(b) in respect of those premises B manages substantial quantities of waste which is not radioactive waste, and

(c) the management of the radioactive waste will be completed by B as soon as is reasonably practicable, with the radioactive waste dispersed in non-radioactive waste.

(5) B is not exempt under sub-paragraph (4) from the requirement for an environmental permit to carry on Activity B where the waste received by B is or contains a high-activity source.

(6) A person ("C") is exempt from the requirement for an environmental permit to carry on Activity A in respect of paragraph 5 waste, where C complies with the relevant standard conditions and—

(a) in respect of radioactive waste described in paragraph 5(1)(a), the condition in paragraph 6(1), and

(b) in respect of radioactive waste described in paragraph 5(1)(b), the condition in paragraph 6(2).

(7) A person ("D") is exempt from the requirement for an environmental permit to carry on Activity A in respect of radioactive waste which is a sealed source, an electrodeposited source or a tritium foil source which—

(a) contains a quantity of radionuclides which exceeds the value specified in column 2 of Table 4 in respect of the relevant type of source,

(b) immediately before it became radioactive waste, was radioactive material in the form of a sealed source, an electrodeposited source or a tritium foil source (as appropriate), and

(c) has not been received by D for the purpose of D disposing of it,

where D complies with the relevant standard conditions.

[(8) D is not exempt under sub-paragraph (7) from the requirement for an environmental permit where the waste accumulated is or contains a high-activity or similar source. **]** [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. a) para. 4(1)-(7)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. a) para. 4(1)-(7)(c): England, Wales

Sch. 23(6)(s. a) para. 4(8): (extent not available)

Law In Force

5.— Radioactive substances exempted under paragraphs 3 and 4

(1) Subject to sub-paragraph (2), paragraphs 3(1)(a) and 4(4) and (6) apply to—

(a) a substance or article described in an entry in column 1 of Table 4 which contains a quantity of radionuclides that does not exceed the value specified in column 2 of Table 4 in respect of that substance or article, or

(b) any substance or article which is not described in an entry in column 1 of Table 4.

(2) Sub-paragraph (1) does not apply to NORM waste **[…]**[1] .

Notes

[1] Words revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. a) para. 5(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. a) para. 5(1)-(2): England, Wales

Law In Force

6.— Conditions in respect of the total quantity or concentration of radioactive substances on any premises

(1) The condition referred to in paragraphs 3(1)(a)(i) and 4(6)(a) is that, in respect of the total amount of a substance or article described in paragraph 5(1)(a) (including any mobile radioactive apparatus) on the premises, the quantity of radionuclides must not exceed the value specified for that substance or article in column 3 of Table 4.

(2) The condition referred to in paragraphs 3(1)(a)(ii) and 4(6)(b) in respect of a substance or article described in paragraph 5(1)(b) is that—

(a) in respect of the total amount of such substances and articles on the premises, the quantity of radioactivity does not exceed the value specified in column 2 of Table 5, or

(b) no such substance or article on the premises contains a concentration of radioactivity that exceeds the value specified in column 3 of Table 5.

Commencement

Sch. 23(6)(s. a) para. 6(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. a) para. 6(1)-(2)(b): England, Wales

Law In Force

7.— Exemption for accumulating NORM waste

[(1) This paragraph applies to the following radioactive substances activities—

(a) the activity described in paragraph 11(2)(c) of Part 2 of this Schedule ("Activity A");

(b) the activity described in paragraph 11(4) of Part 2 of this Schedule ("Activity B").

] [1]

(2) **[** A **]** [2] person ("A") is exempt from the requirement for an environmental permit to carry on Activity A or Activity B in respect of **[** NORM waste **]** [3] , where another person ("B") transfers that waste to A—

(a) in accordance with—

(i) a disposal permit held by B, or

(ii) an exemption from holding such a permit that applied to B in respect of the transfer to A, and

(b) for the purpose of its accumulation by A with a view to its subsequent management by A on the premises on which it is received by A.

(3) **[** A **]** [2] person ("C") is exempt from the requirement for an environmental permit to carry on Activity A in respect of **[** NORM waste **]** [3] where C complies with the relevant standard conditions.

(4)-(5) **[…]**[4]

Notes

1 Substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

2 Words revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

3 Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

4 Revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. a) para. 7(1)-(5)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. a) para. 7(1)-(5)(b): England, Wales

SECTION 3

Exemption for keeping or using mobile radioactive apparatus

Law In Force

8.— Exemption for keeping or using mobile radioactive apparatus

(1) A person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(5) of Part 2 of this Schedule in respect of—

(a) a mobile radioactive apparatus described in an entry in column 1 of Table 4 where—

(i) that apparatus contains a quantity of radionuclides that does not exceed the value specified in column 2 of Table 4 in respect of an apparatus of that description, and

(ii) A complies with the conditions in sub-paragraph (2), or

(b) mobile radioactive apparatus stored in transit.

(2) The conditions in this sub-paragraph are that A must—

(a) ensure that in relation to the total amount of all such mobile radioactive apparatus that A holds, the quantity of radionuclides does not exceed the value specified, in respect of an apparatus of that description, in column 3 of Table 4, and

(b) comply with the relevant standard conditions.

Commencement

Sch. 23(6)(s. b) para. 8(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. b) para. 8(1)-(2)(b): England, Wales

SECTION 4

Relevant standard conditions

Law In Force

9. Interpretation of this Section

In this Section, "radioactive substances" means radioactive material, mobile radioactive apparatus and radioactive waste, and "exempt radioactive substances" means radioactive substances in respect of which an exemption in Section 2 or 3 of this Part applies.

Commencement

Sch. 23(6)(s. c) para. 9: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. c) para. 9: England, Wales

Law In Force

10.— Relevant standard conditions

(1) Reference to the relevant standard conditions in Sections 1 to 3 of this Part, means in respect of the exemption provided for in—

(a) paragraph 3(1)(a), the conditions in paragraphs 11 and 12;
(b) paragraph 4(6), 4(7) or 7(3), the conditions in paragraphs 11, 12 and 14;
(c) paragraph 8(1)(a), the conditions in paragraphs 11 and 13.

(2) A condition in paragraph 11, 12 or 13 does not apply in respect of an exemption in Section 2 or 3 of this Part unless that condition is a relevant condition in respect of that exemption.

Commencement

Sch. 23(6)(s. c) para. 10(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. c) para. 10(1)-(2): England, Wales

Law In Force

11. General conditions

A person ("A") to whom the conditions in this paragraph apply must—

(a) keep an adequate record of any exempt radioactive substances which A holds, and—
  (i) in respect of exempt radioactive substances which are mobile radioactive apparatus, the locations at which they are kept or used;
  (ii) in respect of other exempt radioactive substances, the location within the premises where A holds them,
(b) ensure that where reasonably practicable exempt radioactive substances or the containers of such radioactive substances, are marked or labelled as radioactive,
(c) in respect of exempt radioactive substances which are sealed sources, electrodeposited sources or tritium foil sources, not modify or mutilate those sources or cause a loss of

containment such that radioactive material or radioactive waste may be released outside the source,

(d) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the conditions in respect of the relevant exemption are complied with,

(e) hold the exempt radioactive substances safely and securely to prevent, so far as reasonably practicable—

(i) accidental removal, loss or theft from the premises where they are held, or

(ii) loss of containment, and

(f) in respect of exempt radioactive substances in a container—

(i) not modify or mutilate that container, and

(ii) prevent any uncontrolled or unintended release of radioactive material or radioactive waste from the container.

Commencement

Sch. 23(6)(s. c) para. 11(a)-(f)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. c) para. 11(a)-(f)(ii): England, Wales

Law In Force

12.— Loss or theft conditions

(1) Subject to sub-paragraph (2), in the event of an incident of loss or theft (or suspected loss or theft) of exempt radioactive substances (except mobile radioactive apparatus) from the premises where they are held, a person to whom the condition in this paragraph applies must—

(a) notify the incident to the regulator as soon as reasonably practicable, and

(b) include in that notification the details of any other incidents of loss or theft (or suspected loss or theft) of any radioactive substances from those premises over the 12 months preceding the incident being notified.

(2) In respect of an incident described in sub-paragraph (1), a notification to the regulator is not required where in respect of the aggregated total amount of exempt radioactive substances (excluding mobile radioactive apparatus) lost or stolen (or suspected to have been lost or stolen) from the premises in the incident and in all other such incidents in the 12 months preceding it, the total quantity of radioactivity does not exceed the value that is ten times the value in column 2 of Table 5.

Commencement

Sch. 23(6)(s. c) para. 12(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. c) para. 12(1)-(2): England, Wales

Law In Force

13.— Loss or theft conditions: mobile radioactive apparatus

(1) Subject to sub-paragraph (2), in the event of an incident of loss or theft (or suspected loss or theft) of mobile radioactive apparatus from a person ("A") to whom the condition in this paragraph applies, A must—

(a) notify the incident to the regulator as soon as reasonably practicable, and

(b) include in that notification the details of any other incidents of loss or theft (or suspected loss or theft) of any mobile radioactive apparatus from A over the 12 months preceding the incident being notified.

(2) In respect of an incident described in sub-paragraph (1), a notification to the regulator is not required where in respect of the aggregated total amount of mobile radioactive apparatus lost or stolen (or suspected to have been lost or stolen) from A in the incident and in all other such incidents in the 12 months preceding it, the total quantity of radioactivity does not exceed the value that is ten times the value in column 2 of Table 5.

Commencement

Sch. 23(6)(s. c) para. 13(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. c) para. 13(1)-(2): England, Wales

Law In Force

14. Condition to dispose of accumulated waste

A person to whom the condition in this paragraph applies must dispose of the radioactive waste which is the subject of the exemption to which this condition applies—

(a) as soon as reasonably practicable after it has become waste, and

(b) in the case of such waste where it is a sealed source, a tritium foil source or an electrodeposited source, in any event within 26 weeks after it has become waste unless the regulator advises in writing that a longer period of accumulation is allowed.

Commencement

Sch. 23(6)(s. c) para. 14(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. c) para. 14(a)-(b): England, Wales

SECTION 5

Exemption for disposing of solid radioactive waste

Law In Force

15.— Exemption for receiving and disposing of solid radioactive waste

(1) This paragraph applies to the following radioactive substances activities—

(a) the activity described in paragraph 11(2)(b) of Part 2 of this Schedule ("Activity A");

(b) the activity described in paragraph 11(4) of Part 2 of this Schedule ("Activity B").

(2) A person ("A") is exempt from the requirement for an environmental permit to carry on Activity A or Activity B in respect of solid radioactive waste described in paragraph 16(1)(a) where—

(a) A receives the waste on premises for the purpose of it being managed by A on those premises,

(b) in respect of those premises A manages substantial quantities of waste which is not radioactive waste, and

(c) the radioactive waste will be disposed of by A as soon as is reasonably practicable with the radioactive waste dispersed in non-radioactive waste.

(3) A person ("B") is exempt from the requirement for an environmental permit to carry on Activity A in respect of solid radioactive waste described in paragraph 16(1) where—

(a) in respect of a sealed source, an electrodeposited source or a tritium foil source, B complies with the conditions in paragraph 17(2), and

(b) in respect of any other waste described in paragraph 16(1)(a), B complies with the conditions in paragraph 17(1) and (2).

Commencement

Sch. 23(6)(s. d) para. 15(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. d) para. 15(1)-(3)(b): England, Wales

Law In Force

16.— Solid radioactive waste

(1) Solid radioactive waste referred to in paragraph 15 means—

[(a) subject to sub-paragraph (2)—

(i) solid radioactive waste described in an entry in column 1 of Table 6 which does not contain a concentration of radionuclides that exceeds the value specified in column 2 of that table in respect of that kind of waste, or

(ii) a broken or damaged individual sealed source of the type described in the fourth entry in Table 6 (individual sealed sources which are solely radioactive waste because they contain tritium), which would not have exceeded the value specified in column 2 when the source was intact, or

] [1]

(b) a sealed source, an electrodeposited source or a tritium foil source which is not described in paragraph (a).

(2) Sub-paragraph (1)(a) does not apply to waste—

(a) where, prior to the disposal of that waste, a person has diluted it with the intention of ensuring that sub-paragraph (1)(a) is met, or

(b) which is NORM waste **[…]**[2] .

Notes

[1] Substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] Words revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. d) para. 16(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. d) para. 16(1)-(1)(a), (1)(b)-(2)(b): England, Wales

Sch. 23(6)(s. d) para. 16(1)(a)(i)-(1)(a)(ii): (extent not available)

Law In Force

17.— Conditions in respect of solid radioactive waste

(1) The condition referred to in paragraph 15(3)(b) is that B must ensure that, in respect of the total amount of a waste to which this condition applies that is disposed of on or from the premises, the quantity of radioactivity which that waste contains must not exceed the value specified in column 3 of Table 6 in respect of that waste during the period stated in that column.

(2) The conditions referred to in paragraph 15(3)(a) and (b) are that B must—

(a) keep an adequate record of the solid radioactive waste which B disposes of on or from any premises under that paragraph,

(b) dispose of the waste by any of the routes described in sub-paragraph (3),

(c) where the disposal route in sub-paragraph (3)(a) is used, ensure that where reasonably practicable any marking or labelling of the waste or its container is removed before the person disposes of that waste,

[(d) where the waste is a high-activity or similar source, notify the details of the disposal to the regulator within 14 days of the disposal (including, for a high-activity source, the information required by Annex XIV of the Basic Safety Standards Directive), in such form as may be required by the regulator, and **]** [1]

(e) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the conditions that apply in respect of the relevant exemption in paragraph 15(3) are complied with.

(3) The routes referred to in sub-paragraph (2)(b) are that the waste is transferred to—

(a) subject to sub-paragraph (4), a person who manages substantial quantities of non-radioactive waste and where the radioactive waste will be so managed with the radioactive waste dispersed in non-radioactive waste,

(b) a waste permitted person, or

(c) where the waste is a sealed source, an electrodeposited source or a tritium foil source, to a licensee of a nuclear site or to a person who is situated in another country and who is lawfully entitled to receive such waste.

(4) The route in sub-paragraph (3)(a) does not apply in respect of waste—

(a) described in paragraph 16(1)(b), or

(b) which is described in paragraph 16(1)(a) and which is a sealed source, an electrodeposited source or a tritium foil source, where in respect of the total amount of such a source which is disposed of on or from the premises under paragraph 15(3), the quantity of radioactivity which that waste contains exceeds the value specified in column 3 of Table 6 in respect of that source during the period stated in that column.

Notes

[1] Substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. d) para. 17(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. d) para. 17(1)-(4)(b): England, Wales

SECTION 6

Exemption for disposing of NORM waste

Law In Force

18.— Exemption for receiving and disposing of NORM waste

[(1) This paragraph applies to the following radioactive substances activities carried on in respect of NORM waste—

(a) the activity described in paragraph 11(2)(b) of Part 2 of this Schedule ("Activity A"); and

(b) the activity described in paragraph 11(4) of Part 2 of this Schedule ("Activity B").

] [1]

(2) **[** A **]** [2] person ("A") is exempt from the requirement for an environmental permit to carry on Activity A or Activity B in respect of **[…]** [2] NORM waste where another person ("B") transfers that waste to A—

(a) in accordance with—

(i) a disposal permit held by B, or

(ii) an exemption from holding such a permit that applied to B in respect of the transfer to A, and

(b) for the purpose of its disposal by A on the premises on which A receives it.

(3) Where a person ("C") disposes of—

(a) type 1 NORM waste on or from premises, sub-paragraph (4) applies to C, or

(b) type 2 NORM waste on or from premises, sub-paragraph (5) applies to C.

(4) C is exempt from the requirement for an environmental permit to carry on Activity A in respect of type 1 NORM waste where in relation to the total amount of such waste disposed of on or from the premises by C per year—

(a) the quantity of radionuclides does not exceed **[** the value specified in column 3 of Table 4A **]** [3] , and C complies with the conditions in paragraph 19(1), or

(b) **[…]**[2] the quantity of radionuclides exceeds **[** the value specified in column 3 of Table 4A **]** [3] , and C complies with—

(i) the conditions in paragraph 19(1), and

(ii) where C intends to dispose of the waste by one of the methods in paragraph 19(2)(a), the conditions in paragraph 19(3).

(5) **[…]**[2] C is exempt from the requirement for an environmental permit to carry on Activity A in respect of type 2 NORM waste where C complies with the conditions in paragraph 19(1) and (3).

(6)-(7) **[…]**[4]

Notes

[1] Substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] Words revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[3] Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[4] Revoked by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. e) para. 18(1)-(7)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. e) para. 18(1)-(7)(c): England, Wales

Law In Force

[18A. Exemption for disposing of gaseous NORM waste from oil and gas production

A person is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) (disposing of waste) of Part 2 of this Schedule where the only radioactive waste disposed of is gaseous NORM waste released in the production of oil and gas.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Extent

Sch. 23(6)(s. e) para. 18A: (extent not available)

Law In Force

19.— Conditions in respect of NORM waste

(1) The conditions referred to in the exemptions in paragraph 18(4)(a) and (b)(i) and (5) are that C must—

(a) keep an adequate record of the NORM waste which C disposes of under those exemptions,

(b) dispose of the waste by any of the methods described in sub-paragraph (2),

(c) where the disposal method in sub-paragraph (2)(a) or (b) is used, ensure that where reasonably practicable any marking or labelling of the waste or its container is removed before C disposes of that waste, and

(d) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the conditions that apply to C in respect of the relevant exemption in that paragraph are complied with.

(2) The methods referred to in sub-paragraph (1)(b) are that the waste is disposed of—

(a) subject to sub-paragraph (3) where it applies, by burial in landfill or by the transfer of the waste to a person for the purpose of—

(i) the burial in landfill of the waste, or

(ii) the application of a treatment process to the waste which is preparatory to the burial in landfill of that waste,

(b) by incineration (or transfer to a person for such incineration or treatment which is preparatory to the incineration of the waste), but not in respect of—

(i) type 1 NORM waste, where in respect of the total amount of that waste that is incinerated (or transferred to a person for preparation or incineration) per year the quantity of radionuclides in the total amount of that waste exceeds **[** the value in column 4 of Table 4A **]** [1] , or

(ii) type 2 NORM waste, or

(c) by transfer to a waste permitted person.

(3) The conditions referred to in paragraph 18(4)(b)(ii) and (5) are that C must—

(a) make a written radiological assessment of the reasonably foreseeable pathways for the exposure of the public and workers to radiation in respect of—

(i) the application of any treatment process to the waste which is preparatory to its burial in landfill, at the place of that treatment, and

(ii) the burial in landfill of that waste, at the place of disposal,

(b) be satisfied that the assessment demonstrates that radiation doses are not expected to exceed—

(i) 1 millisievert per year to any worker at the place of treatment or disposal, and

(ii) 300 microsievert per year to any member of the public,

(c) provide that assessment to the regulator at least 28 days before the first disposal is made, and

(d) not dispose of that waste (or continue to do so) if the regulator objects in writing to that assessment.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. e) para. 19(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. e) para. 19(1)-(3)(d): England, Wales

SECTION 7

Exemption for disposing of aqueous radioactive waste

Law In Force

20.— Exemption for disposing of aqueous radioactive waste in Table 6

(1) Subject to sub-paragraph (2), a person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule in respect of aqueous radioactive waste described in an entry in column 1 of Table 6, where A complies with the conditions in sub-paragraph (3).

(2) A is not exempt under sub-paragraph (1) where the person who generated that waste did not minimise the quantity of radionuclides generated as waste to the extent reasonably practicable.

(3) The conditions referred to in sub-paragraph (1) are that, in respect of the waste described in that sub-paragraph, A must—

(a) ensure that in respect of the total amount of that waste that is disposed of on or from the premises in a year, the quantity of radioactivity which that waste contains does not exceed the value specified in column 3 of Table 6 in respect of that waste,

(b) dispose of that waste to a relevant sewer or to a waste permitted person,

(c) keep an adequate record of that waste which A disposes of on or from the premises, and

(d) allow the regulator access to such records or such premises as the regulator may request in order to determine that the preceding conditions in this sub-paragraph are complied with.

Commencement

Sch. 23(6)(s. f) para. 20(1)-(3)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. f) para. 20(1)-(3)(d): England, Wales

Law In Force

21.— Exemption for disposing of other aqueous radioactive waste

(1) Subject to sub-paragraph (2), a person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule in respect of aqueous radioactive waste described in sub-paragraph (3) where A disposes of that waste in accordance with the conditions in paragraph 22(1).

(2) A is not exempt under sub-paragraph (1) in respect of premises, where A holds an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule for the disposal of aqueous radioactive waste on or from those premises.

(3) Subject to sub-paragraph (4), the waste referred to in sub-paragraph (1) is aqueous radioactive waste—

(a) which is not described in an entry in column 1 of Table 6, and

(b) with a total concentration of radioactivity which does not exceed 100 Bq/ml.

(4) Sub-paragraph (3) does not apply to aqueous radioactive waste—

(a) which a person has diluted with the intention that—

(i) the waste has a concentration of radioactivity which is below the value in sub-paragraph (3)(b), or

(ii) the condition in paragraph 22(3)(a) or (4)(b) is complied with in respect of that waste, or

(b) where the person who generated that waste did not minimise the quantity of radionuclides generated as waste to the extent reasonably practicable.

Commencement

Sch. 23(6)(s. f) para. 21(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. f) para. 21(1)-(4)(b): England, Wales

Law In Force

22.— Conditions in respect of aqueous radioactive waste in paragraph 21

(1) The conditions referred to in paragraph 21(1) are that A must—

(a) subject to sub-paragraph (2), dispose of the waste to which that paragraph applies—

(i) directly into a relevant river or the sea,

(ii) to a relevant sewer, or

(iii) to a waste permitted person,

(b) keep an adequate record of the waste which A disposes of from the premises under that paragraph,

(c) in respect of the disposal of aqueous non-Table 6 waste, comply with sub-paragraph (3) or (4) as appropriate, and

(d) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the preceding conditions are complied with.

(2) In respect of aqueous non-Table 6 waste disposed of from the premises, A must not use both of the disposal routes described in sub-paragraph (1)(a)(i) and (ii) in a year and where—

(a) A uses the route in sub-paragraph (1)(a)(i), the conditions in sub-paragraph (3) apply to A, or

(b) A uses the route in sub-paragraph (1)(a)(ii), or A does not use the route in either sub-paragraph (1)(a)(i) or (ii), the conditions in sub-paragraph (4) apply to A.

(3) Where this sub-paragraph applies and A disposes of the aqueous non-Table 6 waste directly into a relevant river or the sea, A must—

(a) in respect of any aqueous non-Table 6 waste which A disposes of, ensure that the concentration of radioactivity does not exceed the value specified in column 2 of Table 7, and

(b) in respect of the total amount of aqueous non-Table 6 waste which A disposes of from the premises in a year, ensure that the quantity of radioactivity does not exceed the value specified in column 4 of Table 7.

(4) Where this sub-paragraph applies and A disposes of the aqueous non-Table 6 waste to a relevant sewer (or only to a waste permitted person), A must ensure that, in respect of the total amount of aqueous non-Table 6 waste which is disposed of from those premises in a year, the total quantity of radioactivity does not exceed—

(a) where any of that waste has a concentration of radioactivity which exceeds the value specified in column 2 of Table 7, the value in sub-paragraph (5), or

(b) where none of that waste has a concentration of radioactivity which exceeds the value specified in column 2 of Table 7, the value in sub-paragraph (5) or (6).

(5) The value referred to in sub-paragraph (4)(a) and (b) is—

(a) 1×10^8 Bq for the sum of the following radionuclides: H-3, C-11, C-14, F-18, P-32, P-33, S-35, Ca-45, Cr-51, Fe-55, Ga-67, Sr-89, Y-90, Tc-99m, In-111, I-123, I-125, I-131, Sm-153, Tl-201, and

(b) 1×10^6 Bq for the sum of all other radionuclides.

(6) The value referred to in sub-paragraph (4)(b) is the value specified in column 3 of Table 7.

(7) In this paragraph, "aqueous non-Table 6 waste" means aqueous radioactive waste which is not described in an entry in column 1 of Table 6.

Commencement

Sch. 23(6)(s. f) para. 22(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. f) para. 22(1)-(7): England, Wales

SECTION 8

Exemption for disposal of gaseous radioactive waste

Law In Force

23.— Exemption for disposal of gaseous radioactive waste

(1) Subject to sub-paragraph (2), a person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule in respect of gaseous radioactive waste where—

(a) the only radionuclide contained in that waste is Kr-85 and A—

(i) ensures that in respect of the total amount of such waste which is disposed of from the premises in a year, the total quantity of radioactivity does not exceed 10^{11} Bq, and

(ii) complies with the conditions in paragraph 24(1), or

(b) subject to sub-paragraph (3), that waste—

(i) is released from within a container at the time that the container is opened, and

(ii) is emitted by solid or liquid radioactive material within the container,

and A complies with the conditions in paragraph 24(1).

(2) Sub-paragraph (1) does not apply to waste where the person who generated that waste did not minimise the quantity of radionuclides generated as waste to the extent reasonably practicable.

(3) Sub-paragraph (1)(b) does not apply in respect of any gas which arises as a result of a process applied by a person to the contained radioactive material.

Commencement

Sch. 23(6)(s. g) para. 23(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. g) para. 23(1)-(3): England, Wales

Law In Force

24.— Conditions in respect of gaseous radioactive waste

(1) The conditions referred to in paragraph 23(1) are that A must—

(a) to the extent that is reasonably practicable—

(i) in respect of relevant gaseous waste which arises in a building, cause the waste to be disposed of by an extraction system which removes the waste from the area where it arose and which vents the waste into the atmosphere, and

(ii) prevent the entry or, where sub-paragraph (i) applies, the re-entry, of relevant gaseous waste into a building, and

(b) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the conditions that apply to A in respect of the relevant exemption in that paragraph are complied with.

(2) In this paragraph "relevant gaseous waste" means waste which is described in paragraph 23(1) and disposed of under the exemption in that paragraph.

Commencement

Sch. 23(6)(s. g) para. 24(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. g) para. 24(1)-(2): England, Wales

SECTION 9

Tables and summation rules in this Part

Law In Force

25. Table 4

The Table 4 referred to in Sections 2 and 3 of this Part—

Table 4

Radioactive material and accumulated radioactive waste: values of maximum quantities

Substance or article	***Maximum quantity of radionuclides for each substance or article***	***Maximum quantity of radionuclides: (a) on any premises in items which satisfy the limit in column 2, or (b) in mobile radioactive apparatus held by a person***
A sealed source of a type not described in any other row of this Table	4 x 10^6 Bq	2 x 10^8 Bq
A Class A gaseous tritium light device	2 x 10^{10} Bq	5 x 10^{12} Bq
A Class B gaseous tritium light device	1 x 10^{12} Bq	3 x 10^{13} Bq
A Class C gaseous tritium light device	1 x 10^{12} Bq	No limit
Any sealed source which is solely radioactive material or radioactive waste because it contains tritium	2 x 10^{10} Bq	5 x 10^{12} Bq
A tritium foil source	2 x 10^{10} Bq	5 x 10^{12} Bq
A smoke detector affixed to premises	4 x 10^6 Bq	No limit
An electrodeposited source	6 x 10^8 Bq Ni-63 or 2 x 10^8 Bq Fe-55	6 x 10^{11} Bq
A luminised article	8 x 10^7 Bq Pm-147 or 4 x 10^9 Bq H-3	4 x 10^{10} Bq Pm-147 or 2 x 10^{11} Bq H-3
A Ba-137m eluting source	4 x 10^4 Bq Cs-137+	4 x 10^5 Bq Cs-137+

Substance or article	*Maximum quantity of radionuclides for each substance or article*	*Maximum quantity of radionuclides: (a) on any premises in items which satisfy the limit in column 2, or (b) in mobile radioactive apparatus held by a person*
A substance or article which is or contains magnesium alloy or thoriated tungsten in which the thorium concentration does not exceed 4% by mass	No limit	No limit
A uranium or thorium compound	Up to a total of 5kg of uranium and thorium	Up to a total of 5kg of uranium and thorium
A substance or article (other than a sealed source) which is intended for use for, used for, or arises from medical or veterinary diagnosis or treatment or clinical or veterinary trials	1 x 10^9 Bq Tc-99m	1 x 10^9 Bq Tc-99m
	and	and
[…	[2 x 10^8 Bq of all other radionuclides, (no more than 1 x 10^8 Bq of which is contained in radioactive material)] [1] …	2 x 10^8 Bq of all other radionuclides, (no more than 1 x 10^8 Bq of which is contained in radioactive material) …
…	…	…][1]

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. h) para. 25: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. h) para. 25: England, Wales

Law In Force

[25A.— Table 4A

The Table 4A referred to in Sections 2, 5 and 6 of this Part is—

Table 4A

NORM waste concentrations and maximum disposal quantities

Radionuclide	*Type 1 NORM concentration (Bq/g)*	*Type 1 NORM total activity for landfill (GBq/year)*	*Type 1 NORM total activity for incineration (MBq/year)*	*Type 2 NORM concentration (Bq/g)*
U-238sec	5	50	100	10
U238+	5	50	100	10

Radionuclide	*Type 1 NORM concentration (Bq/g)*	*Type 1 NORM total activity for landfill (GBq/year)*	*Type 1 NORM total activity for incineration (MBq/year)*	*Type 2 NORM concentration (Bq/g)*
U-234	5	50	100	10
Th-230	5	50	100	10
Ra-226+	5	50	100	10
Pb-210+	100	1000	100	200
Po-210	100	1000	100	200
U-235sec	5	50	100	10
U-235+	5	50	100	10
Pa-231	5	50	100	10
Ac-227+	5	50	100	10
Th-232sec	5	50	100	10
Th-232	5	50	100	10
Ra-228+	5	50	100	10
Th-228+	5	50	100	10

(2) The summation rule in respect of columns 2 and 5 of Table 4A is the sum of the quotients A/B where—

(a) "A" means the concentration of each radionuclide listed in column 1 of Table 4A that is present in the substance or article; and

(b) "B" means the concentration of that radionuclide specified in column 2 or 5 (as appropriate) of Table 4A.

(3) The summation rule in respect of columns 3 and 4 of Table 4A is the sum of the quotients C/D where—

(a) "C" means the quantity of each radionuclide listed in column 1 of Table 4A that is present in the substance or article; and

(b) "D" means the quantity of that radionuclide specified in column 3 or 4 (as appropriate) of Table 4A.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Extent

Sch. 23(6)(s. h) para. 25A(2)-(3)(b): England, Wales

Law In Force

26.— Table 5

(1) The Table 5 referred to in Sections 2 and 4 of this Part is—

Table 5

Radionuclides: values of quantities and concentrations

Radionuclides	*Maximum quantity of radioactivity (Bq) on any premises*	*Maximum concentration (Bq/g)*
H-3	10^9	10^6
Be-7	10^7	10^3
C-14	10^7	10^4
O-15	10^9	10^2
F-18	10^6	10
Na-22	10^6	10
Na-24	10^5	10
Si-31	10^6	10^3
P-32	10^5	10^3
P-33	10^8	10^5
S-35	10^8	10^5
Cl-36	10^6	10^4
Cl-38	10^5	10
Ar-37	10^8	10^6
Ar-41	10^9	10^2
K-42	10^6	10^2
K-43	10^6	10
Ca-45	10^7	10^4
Ca-47	10^6	10
Sc-46	10^6	10
Sc-47	10^6	10^2
Sc-48	10^5	10
V-48	10^5	10
Cr-51	10^7	10^3
Mn-51	10^5	10
Mn-52	10^5	10
Mn-52m	10^5	10
Mn-53	10^9	10^4
Mn-54	10^6	10
Mn-56	10^5	10
Fe-52	10^6	10
Fe-55	10^6	10^4
Fe-59	10^6	10
Co-55	10^6	10
Co-56	10^5	10
Co-57	10^6	10^2
Co-58	10^6	10

Radionuclides	***Maximum quantity of radioactivity (Bq) on any premises***	***Maximum concentration (Bq/g)***
Co-58m	10^7	10^4
Co-60	10^5	10
Co-60m	10^6	10^3
Co-61	10^6	10^2
Co-62m	10^5	10
Ni-59	10^8	10^4
Ni-63	10^8	10^5
Ni-65	10^6	10
Cu-64	10^6	10^2
Zn-65	10^6	10
Zn-69	10^6	10^4
Zn-69m	10^6	10^2
Ga-72	10^5	10
Ge-71	10^8	10^4
As-73	10^7	10^3
As-74	10^6	10
As-76	10^5	10^2
As-77	10^6	10^3
Se-75	10^6	10^2
Br-82	10^6	10
Kr-74	10^9	10^2
Kr-76	10^9	10^2
Kr-77	10^9	10^2
Kr-79	10^5	10^3
Kr-81	10^7	10^4
Kr-83m	10^{12}	10^5
Kr-85	10^4	10^5
Kr-85m	10^{10}	10^3
Kr-87	10^9	10^2
Kr-88	10^9	10^2
Rb-86	10^5	10^2
Sr-85	10^6	10^2
Sr-85m	10^7	10^2
Sr-87m	10^6	10^2
Sr-89	10^6	10^3
Sr-90+	10^4	10^2
Sr-91	10^5	10
Sr-92	10^6	10
Y-90	10^5	10^3
Y-91	10^6	10^3

Radionuclides	*Maximum quantity of radioactivity (Bq) on any premises*	*Maximum concentration (Bq/g)*
Y-91m	10^6	10^2
Y-92	10^5	10^2
Y-93	10^5	10^2
Zr-93+	10^7	10^3
Zr-95	10^6	10
Zr-97+	10^5	10
Nb-93m	10^7	10^4
Nb-94	10^6	10
Nb-95	10^6	10
Nb-97	10^6	10
Nb-98	10^5	10
Mo-90	10^6	10
Mo-93	10^8	10^3
Mo-99	10^6	10^2
Mo-101	10^6	10
Tc-96	10^6	10
Tc-96m	10^7	10^3
Tc-97	10^8	10^3
Tc-97m	10^7	10^3
Tc-99	10^7	10^4
Tc-99m	10^7	10^2
Ru-97	10^7	10^2
Ru-103	10^6	10^2
Ru-105	10^6	10
Ru-106+	10^5	10^2
Rh-103m	10^8	10^4
Rh-105	10^7	10^2
Pd-103	10^8	10^3
Pd-109	10^6	10^3
Ag-105	10^6	10^2
Ag-108m+	10^6	10
Ag-110m	10^6	10
Ag-111	10^6	10^3
Cd-109	10^6	10^4
Cd-115	10^6	10^2
Cd-115m	10^6	10^3
In-111	10^6	10^2
In-113m	10^6	10^2
In-114m	10^6	10^2
In-115m	10^6	10^2

Radionuclides	*Maximum quantity of radioactivity (Bq) on any premises*	*Maximum concentration (Bq/g)*
Sn-113	10^7	10^3
Sn-125	10^5	10^2
Sb-122	10^4	10^2
Sb-124	10^6	10
Sb-125	10^6	10^2
Te-123m	10^7	10^2
Te-125m	10^7	10^3
Te-127	10^6	10^3
Te-127m	10^7	10^3
Te-129	10^6	10^2
Te-129m	10^6	10^3
Te-131	10^5	10^2
Te-131m	10^6	10
Te-132	10^7	10^2
Te-133	10^5	10
Te-133m	10^5	10
Te-134	10^6	10
I-123	10^7	10^2
I-125	10^6	10^3
I-126	10^6	10^2
I-129	10^5	10^2
I-130	10^6	10
I-131	10^6	10^2
I-132	10^5	10
I-133	10^6	10
I-134	10^5	10
I-135	10^6	10
Xe-131m	10^4	10^4
Xe-133	10^4	10^3
Xe-135	10^{10}	10^3
Cs-129	10^5	10^2
Cs-131	10^6	10^3
Cs-132	10^5	10
Cs-134m	10^5	10^3
Cs-134	10^4	10
Cs-135	10^7	10^4
Cs-136	10^5	10
Cs-137+	10^4	10
Cs-138	10^4	10
Ba-131	10^6	10^2

Radionuclides	*Maximum quantity of radioactivity (Bq) on any premises*	*Maximum concentration (Bq/g)*
Ba-140+	10^5	10
La-140	10^5	10
Ce-139	10^6	10^2
Ce-141	10^7	10^2
Ce-143	10^6	10^2
Ce-144+	10^5	10^2
Pr-142	10^5	10^2
Pr-143	10^6	10^4
Nd-147	10^6	10^2
Nd-149	10^6	10^2
Pm-147	10^7	10^4
Pm-149	10^6	10^3
Sm-151	108	10^4
Sm-153	10^6	10^2
Eu-152	10^6	10
Eu-152m	10^6	10^2
Eu-154	10^6	10
Eu-155	10^7	10^2
Gd-153	10^7	10^2
Gd-159	10^6	10^3
Tb-160	10^6	10
Dy-165	10^6	10^3
Dy-166	10^6	10^3
Ho-166	10^5	10^3
Er-169	10^7	10^4
Er-171	10^6	10^2
Tm-170	10^6	10^3
Tm-171	10^8	10^4
Yb-175	10^7	10^3
Lu-177	10^7	10^3
Hf-181	10^6	10
Ta-182	10^4	10
W-181	10^7	10^3
W-185	10^7	10^4
W-187	10^6	10^2
Re-186	10^6	10^3
Re-188	10^5	10^2
Os-185	10^6	10
Os-191	10^7	10^2
Os-191m	10^7	10^3

Radionuclides	*Maximum quantity of radioactivity (Bq) on any premises*	*Maximum concentration (Bq/g)*
Os-193	10^6	10^2
Ir-190	10^6	10
Ir-192	10^4	10
Ir-194	10^5	10^2
Pt-191	10^6	10^2
Pt-193m	10^7	10^3
Pt-197	10^6	10^3
Pt-197m	10^6	10^2
Au-198	10^6	10^2
Au-199	10^6	10^2
Hg-197	10^7	10^2
Hg-197m	10^6	10^2
Hg-203	10^5	10^2
Tl-200	10^6	10
Tl-201	10^6	10^2
Tl-202	10^6	10^2
Tl-204	10^4	10^4
Pb-203	10^6	10^2
Pb-210+	10^4	10
Pb-212+	10^5	10
Bi-206	10^5	10
Bi-207	10^6	10
Bi-210	10^6	10^3
Bi-212+	10^5	10
Po-203	10^6	10
Po-205	10^6	10
Po-207	10^6	10
Po-210	10^4	10
At-211	10^7	10^3
Rn-220+	10^7	10^4
Rn-222+	10^8	10
Ra-223+	10^5	10^2
Ra-224+	10^5	10
Ra-225	10^5	10^2
Ra-226+	10^4	10
Ra-227	10^6	10^2
Ra-228+	10^5	10
Ac-228	10^6	10
Th-226+	10^7	10^3
Th-227	10^4	10

Radionuclides	*Maximum quantity of radioactivity (Bq) on any premises*	*Maximum concentration (Bq/g)*
Th-228+	10^4	1
Th-229+	10^3	1
Th-230	10^4	1
Th-231	10^7	10^3
Th-232 sec	10^3	1
Th-234+	10^5	10^3
Pa-230	10^6	10
Pa-231	10^3	1
Pa-233	10^7	10^2
U-230+	10^5	10
U-231	10^7	10^2
U-232+	10^3	1
U-233	10^4	10
U-234	10^4	10
U-235+	10^4	10
U-236	10^4	10
U-237	10^6	10^2
U-238+	10^4	10
U-238 sec	10^3	1
U-239	10^6	10^2
U-240	10^7	10^3
U-240+	10^6	10
Np-237+	10^3	1
Np-239	10^7	10^2
Np-240	10^6	10
Pu-234	10^7	10^2
Pu-235	10^7	10^2
Pu-236	10^4	10
Pu-237	10^7	10^3
Pu-238	10^4	1
Pu-239	10^4	1
Pu-240	10^3	1
Pu-241	10^5	10^2
Pu-242	10^4	1
Pu-243	10^7	10^3
Pu-244	10^4	1
Am-241	10^4	1
Am-242	10^6	10^3
Am-242m+	10^4	1
Am-243+	10^3	1

Radionuclides	*Maximum quantity of radioactivity (Bq) on any premises*	*Maximum concentration (Bq/g)*
Cm-242	10^5	10^2
Cm-243	10^4	1
Cm-244	10^4	10
Cm-245	10^3	1
Cm-246	10^3	1
Cm-247	10^4	1
Cm-248	10^3	1
Bk-249	10^6	10^3
Cf-246	10^6	10^3
Cf-248	10^4	10
Cf-249	10^3	1
Cf-250	10^4	10
Cf-251	10^3	1
Cf-252	10^4	10
Cf-253	10^5	10^2
Cf-254	10^3	1
Es-253	10^5	10^2
Es-254	10^4	10
Es-254m	10^6	10^2
Fm-254	10^7	10^4
Fm-255	10^6	10^3
Any other radionuclide that is: (a) not of natural terrestrial or cosmic origin, or (b) listed in Table 2 in this Schedule.	10^3 , or the quantity given in respect of that radionuclide in the **[** Public Health England **]** [1] publication ' *Exempt Concentrations and Quantities for Radionuclides not Included in the European Basic Safety Standards Directive*' [2] .	1, or the concentration given in respect of that radionuclide in the publication referenced in column 2.

(2) The summation rule in respect of column 2 of Table 5 is the sum of the quotients A/B where—

(a) "A" means the quantity of each radionuclide listed in column 1 of Table 5 that is present in the material and waste, and

(b) "B" means the quantity of that radionuclide specified in column 2 of Table 5.

(3) The summation rule in respect of **[** column 3 **]** [1] of Table 5 is the sum of the quotients C/D where—

(a) "C" means the concentration of each radionuclide listed in column 1 of Table 5 that is present in the material and waste, and

(b) "D" means the concentration of that radionuclide specified in column 3 of Table 5.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] Published by the National Radiological Protection Board, Chilton, Oxfordshire, 1999, NRPB-R306 (ISBN 978-0-85951-429-3). A copy may be obtained from the CRCE Directors' Office, Centre for Chemical, Radiation and Environmental Hazards, Public Health England, Chilton, Didcot, OX11 0RQ.

Commencement

Sch. 23(6)(s. h) para. 26(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. h) para. 26(1)-(3)(b): England, Wales

Law In Force

27. Table 6

The Table 6 referred to in Sections 5 and 7 of this Part is—

Table 6

Radioactive waste: values of quantities and concentrations

Radioactive waste	*Maximum concentration of radionuclides*	*Maximum quantity of radioactivity to be disposed of in the period stated*
Solid radioactive waste, with no single item > 4×10^4 Bq	4×10^5 Bq for the sum of all radionuclides per $0.1m^3$	2×10^8 Bq/year
Solid radioactive waste containing tritium and C-14 only, with no single item > 4×10^5 Bq	4×10^6 Bq of tritium and C-14 per $0.1m^3$	2×10^9 Bq/year
Individual sealed sources	2×10^5 Bq for the sum of all radionuclides per $0.1m^3$	1×10^7 Bq/year
Individual sealed sources which are solely radioactive waste because they contain tritium	2×10^{10} Bq of tritium per $0.1m^3$	1×10^{13} Bq/year
Luminised articles with no single item containing > 8×10^7 Bq of Pm-147 or > 4×10^9 of tritium	8×10^7 Bq per $0.1m^3$ of Pm-147 or 4×10^9 Bq per $0.1m^3$ for tritium	2×10^9 Bq/year of Pm-147 or 1×10^{11} Bq/year of tritium
Solid radioactive waste which consists of magnesium alloy, thoriated tungsten or dross from hardener alloy in which the thorium concentration does not exceed 4% by mass	No limit	No limit
Solid uranium or thorium compound	No limit	0.5kg of uranium or thorium per week
Aqueous liquid uranium or thorium compound	No limit	0.5kg of uranium or thorium per year
Aqueous liquid human excreta	No limit	1×10^{10} Bq/year of Tc-99m and 5×10^9 Bq/year for the sum of all other radionuclides

Commencement

Sch. 23(6)(s. h) para. 27: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. h) para. 27: England, Wales

Law In Force

28.— Table 7

(1) The Table 7 referred to in Section 7 of this Part is—

Table 7

Aqueous radioactive waste values

Radionuclide	*Concentration in Bq/ litre*	*Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)*	*Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)*
H-3	10^3	10^{10}	10^{10}
Be-7	1	10^7	10^7
C-14	0.1	10^6	10^6
F-18	0.1	10^6	10^6
Na-22	1	10^6	10^7
Na-24	1	10^7	10^7
Si-31	10	10^8	10^8
P-32	0.001	10^4	10^4
P-33	0.001	10^4	10^4
S-35	10	3×10^7	10^8
Cl-36	10	10^7	10^8
Cl-38	0.1	10^6	10^6
K-42	0.01	10^5	10^5
K-43	0.01	10^5	10^5
Ca-45	1	10^7	10^7
Ca-47	0.1	10^6	10^6
Sc-46	0.001	10^4	10^4
Sc-47	0.01	10^5	10^5
Sc-48	0.001	10^4	10^4
V-48	1	10^7	10^7
Cr-51	10	10^8	10^8
Mn-51	0.001	10^4	10^4
Mn-52	0.001	10^4	10^4

Radionuclide	*Concentration in Bq/ litre*	*Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)*	*Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)*
Mn-52m	0.001	10^4	10^4
Mn-53	1	10^7	10^7
Mn-54	0.01	10^5	10^5
Mn-56	0.001	10^4	10^4
Fe-52	0.01	10^5	10^5
Fe-55	1	10^7	10^7
Fe-59	0.01	10^5	10^5
Co-55	0.001	10^4	10^4
Co-56	0.001	10^4	10^4
Co-57	0.1	10^6	10^6
Co-58	0.1	10^6	10^6
Co-58m	1	10^7	10^7
Co-60	0.01	10^5	10^5
Co-60m	1	10^7	10^7
Co-61	0.1	10^6	10^6
Co-62m	0.001	10^4	10^4
Ni-59	1	10^7	10^7
Ni-63	10^2	10^9	10^9
Ni-65	0.01	10^5	10^5
Cu-64	0.1	10^6	10^6
Zn-65	0.1	3×10^5	10^6
Zn-69	10	10^8	10^8
Zn-69m	0.1	10^6	10^6
Ga-67	0.1	10^6	10^6
Ga-72	0.001	10^4	10^4
Ge-71	1	10^7	10^7
As-73	10	10^8	10^8
As-74	1	10^7	10^7
As-76	1	10^7	10^7
As-77	1	10^7	10^7
Se-75	0.1	3×10^5	10^6
Br-82	0.1	10^6	10^6
Rb-86	0.1	10^6	10^6
Sr-85	0.1	10^6	10^6
Sr-85m	0.1	10^6	10^6
Sr-87m	0.1	10^6	10^6
Sr-89	1	10^7	10^7
Sr-90+	0.1	3×10^5	10^6
Sr-91	0.01	10^5	10^5

Westlaw UK

Radionuclide	*Concentration in Bq/ litre*	*Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)*	*Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)*
Sr-92	0.01	10^5	10^5
Y-90	1	10^7	10^7
Y-91	1	10^7	10^7
Y-91m	0.01	10^5	10^5
Y-92	0.1	10^6	10^6
Y-93	0.1	10^6	10^6
Zr-93	10	10^8	10^8
Zr-95+	0.001	10^4	10^4
Zr-97	0.01	10^5	10^5
Nb-93m	10	10^8	10^8
Nb-94	0.1	10^6	10^6
Nb-95	1	10^7	10^7
Nb-97	1	10^7	10^7
Nb-98	0.1	10^6	10^6
Mo-90	0.1	10^6	10^6
Mo-93	1	10^7	10^7
Mo-99	0.1	10^6	10^6
Mo-101	0.01	10^5	10^5
Tc-96	1	10^7	10^7
Tc-96m	10^2	10^9	10^9
Tc-97	10^2	10^9	10^9
Tc-97m	10	10^8	10^8
Tc-99	10	10^7	10^8
Tc-99m	10	3×10^7	10^8
Ru-97	0.01	10^5	10^5
Ru-103	0.01	10^5	10^5
Ru-105	0.01	10^5	10^5
Ru-106+	0.1	10^6	10^6
Rh-103m	10	10^8	10^8
Rh-105	1	10^7	10^7
Pd-103	0.1	10^6	10^6
Pd-109	0.1	10^6	10^6
Ag-105	1	10^7	10^7
Ag-108m	0.1	10^6	10^6
Ag-110m	0.1	10^6	10^6
Ag-111	10	10^8	10^8
Cd-109	1	10^7	10^7
Cd-115	0.1	10^6	10^6
Cd-115m	1	10^7	10^7

Westlaw UK

Radionuclide	*Concentration in Bq/ litre*	*Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)*	*Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)*
In-111	0.01	10^5	10^5
In-113m	0.01	10^5	10^5
In-114m	0.01	10^5	10^5
In-115m	0.01	10^5	10^5
Sn-113	0.1	10^6	10^6
Sn-125	0.01	10^5	10^5
Sb-122	0.1	10^6	10^6
Sb-124	0.1	10^6	10^6
Sb-125	1	10^7	10^7
Te-123m	1	10^7	10^7
Te-125m	1	10^7	10^7
Te-127	10	10^8	10^8
Te-127m	1	10^7	10^7
Te-129	10	10^8	10^8
Te-129m	1	10^7	10^7
Te-131	1	10^7	10^7
Te-131m	1	10^7	10^7
Te-132	0.1	10^6	10^6
Te-133	1	10^7	10^7
Te-133m	1	10^7	10^7
Te-134	1	10^7	10^7
I-123	1	10^7	10^7
I-125	1	10^7	10^7
I-126	0.1	10^6	10^6
I-129	0.1	10^6	10^6
I-130	0.1	10^6	10^6
I-131	0.1	10^6	10^6
I-132	0.1	10^6	10^6
I-133	0.1	10^6	10^6
I-134	0.1	10^6	10^6
I-135	0.1	10^6	10^6
Cs-129	0.01	10^5	10^5
Cs-131	0.1	10^6	10^6
Cs-132	0.01	10^5	10^5
Cs-134	0.01	10^5	10^5
Cs-134m	0.1	10^6	10^6
Cs-135	0.1	10^6	10^6
Cs-136	0.001	10^4	10^4
Cs-137+	0.01	10^5	10^5

Westlaw UK

Radionuclide	*Concentration in Bq/ litre*	*Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)*	*Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)*
Cs-138	0.001	10^4	10^4
Ba-131	0.1	10^6	10^6
Ba-140	0.1	10^6	10^6
La-140	0.001	10^4	10^4
Ce-139	0.1	10^6	10^6
Ce-141	0.1	10^6	10^6
Ce-143	0.01	10^5	10^5
Ce-144	0.1	10^6	10^6
Pr-142	0.1	10^6	10^6
Pr-143	10	10^8	10^8
Nd-147	0.01	10^5	10^5
Nd-149	0.01	10^5	10^5
Pm-147	10	10^8	10^8
Pm-149	1	10^7	10^7
Sm-151	10^2	10^9	10^9
Sm-153	0.1	10^6	10^6
Eu-152	0.01	10^5	10^5
Eu-152m	0.01	10^5	10^5
Eu-154	0.01	10^5	10^5
Eu-155	0.1	10^6	10^6
Gd-153	0.1	10^6	10^6
Gd-159	0.1	10^6	10^6
Tb-160	0.01	10^5	10^5
Dy-165	0.1	10^6	10^6
Dy-166	0.1	10^6	10^6
Ho-166	0.1	10^6	10^6
Er-169	10	10^8	10^8
Er-171	0.01	10^5	10^5
Tm-170	1	10^7	10^7
Tm-171	10	10^8	10^8
Yb-175	0.1	10^6	10^6
Lu-177	0.1	10^6	10^6
Hf-181	0.01	10^5	10^5
Ta-182	0.001	10^4	10^4
W-181	0.1	10^6	10^6
W-185	1	10^7	10^7
W-187	0.01	10^5	10^5
Re-186	1	10^7	10^7
Re-188	1	10^7	10^7

Westlaw UK

Radionuclide	*Concentration in Bq/ litre*	*Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)*	*Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)*
Os-185	0.01	10^5	10^5
Os-191	0.1	10^6	10^6
Os-191m	1	10^7	10^7
Os-193	0.1	10^6	10^6
Ir-190	0.001	10^4	10^4
Ir-192	0.01	10^5	10^5
Ir-194	0.1	10^6	10^6
Pt-191	0.01	10^5	10^5
Pt-193m	1	10^7	10^7
Pt-197	0.1	10^6	10^6
Pt-197m	0.1	10^6	10^6
Au-198	1	10^7	10^7
Au-199	1	10^7	10^7
Hg-197	1	10^7	10^7
Hg-197m	0.1	10^6	10^6
Hg-203	0.1	10^6	10^6
Tl-200	0.01	10^5	10^5
Tl-201	0.1	10^6	10^6
Tl-202	0.01	10^5	10^5
Tl-204	0.1	10^6	10^6
Pb-203	0.01	10^5	10^5
Pb-210	0.001	10^4	10^4
Pb-212	0.1	10^6	10^6
Bi-206	0.01	10^5	10^5
Bi-207	0.1	10^6	10^6
Bi-210	10	10^8	10^8
Bi-212	1	10^7	10^7
Po-203	0.001	10^4	10^4
Po-205	0.001	10^4	10^4
Po-207	0.001	10^4	10^4
Po-210	0.001	10^4	10^4
At-211	1	10^7	10^7
Ra-223	0.01	10^5	10^5
Ra-224+	0.01	10^5	10^5
Ra-225	0.01	10^5	10^5
Ra-226+	0.01	10^5	10^5
Ra-227	1	10^7	10^7
Ra-228	0.01	10^5	10^5
Ac-227	0.1	10^6	10^6

Westlaw UK

Radionuclide	*Concentration in Bq/ litre*	*Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)*	*Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)*
Ac-228	0.001	10^4	10^4
Th-226	0.1	10^6	10^6
Th-227	0.01	10^5	10^5
Th-228	1	10^7	10^7
Th-229	0.01	10^5	10^5
Th-230	1	10^7	10^7
Th-231	0.1	10^6	10^6
Th-232	1	10^6	10^7
Th-234	0.1	10^6	10^6
Pa-230	0.01	10^5	10^5
Pa-231	0.01	10^5	10^5
Pa-233	0.1	10^6	10^6
U-230	0.1	10^6	10^6
U-231	10	10^8	10^8
U-232	0.1	10^6	10^6
U-233	0.1	10^6	10^6
U-234	0.1	10^6	10^6
U-235+	0.1	10^6	10^6
U-236	0.1	10^6	10^6
U-237	10	10^8	10^8
U-238+	0.1	10^6	10^6
U-239	10	10^8	10^8
U-240	10	10^8	10^8
Np-237	0.1	10^6	10^6
Np-239	1	10^7	10^7
Np-240	0.1	10^6	10^6
Pu-234	0.01	10^5	10^5
Pu-235	0.01	10^5	10^5
Pu-236	1	10^7	10^7
Pu-237	0.1	10^6	10^6
Pu-238	0.1	10^6	10^6
Pu-239	0.1	10^6	10^6
Pu-240	0.1	10^6	10^6
Pu-241	10	10^8	10^8
Pu-242	0.1	10^6	10^6
Pu-243	0.1	10^6	10^6
Pu-244	0.1	10^6	10^6
Am-241	0.1	10^6	10^6
Am-242	0.1	10^6	10^6

Westlaw UK

Radionuclide	*Concentration in Bq/ litre*	*Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)*	*Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)*
Am-242m	0.1	10^6	10^6
Am-243	0.1	10^6	10^6
Cm-242	1	10^7	10^7
Cm-243	0.1	10^6	10^6
Cm-244	0.1	10^6	10^6
Cm-245	0.01	10^5	10^5
Cm-246	0.1	10^6	10^6
Cm-247	0.01	10^5	10^5
Cm-248	0.1	10^6	10^6
Bk-249	10^2	10^9	10^9
Cf-246	1	10^7	10^7
Cf-248	1	10^7	10^7
Cf-249	0.01	10^5	10^5
Cf-250	0.1	10^6	10^6
Cf-251	0.01	10^5	10^5
Cf-252	0.1	10^6	10^6
Cf-253	10	10^8	10^8
Cf-254	0.0001	10^3	10^3
Es-253	1	10^7	10^7
Es-254	0.1	10^6	10^6
Es-254m	0.01	10^5	10^5
Fm-254	1	10^7	10^7
Fm-255	0.1	10^6	10^6
Any other radionuclide that is not of natural terrestrial or cosmic origin	0.0001 or that concentration which gives rise to a dose to a member of the public of 10 microsieverts per year calculated in accordance with the methodology used to calculate other concentrations in this table[1] .	10^3 or that quantity which corresponds to 3,000m^3 of aqueous radioactive waste up to the appropriate concentration as calculated in accordance with column 2.	10^3 or that quantity which corresponds to 10,000m^3 of aqueous radioactive waste up to the appropriate concentration as calculated in accordance with column 2.

(2) The summation rule in respect of column 2 of Table 7 is the sum of the quotients A/B where—

(a) "A" means the concentration in Bq/ litre of each radionuclide listed in column 1 of Table 7 that is present in aqueous waste which is not described in a row in column 1 of Table 6, and

(b) "B" means the concentration of that radionuclide specified in column 2 of Table 7.

(3) The summation rule in respect of column 3 of Table 7 is the sum of the quotients C/D where—

(a) "C" means the quantity in Bq of each radionuclide listed in column 1 of Table 7 that is present in the aqueous waste which is not described in a row in column 1 of Table 6 which is disposed of in the year, and

(b) "D" means the quantity of that radionuclide specified in column 3 of Table 7.

(4) The summation rule in respect of column 4 of Table 7 is the sum of the quotients C/E where—

(a) "C" means the quantity in Bq of each radionuclide listed in column 1 of Table 7 that is present in the aqueous waste which is not described in a row in column 1 of Table 6 which is disposed of in the year, and

(b) "E" means the quantity of that radionuclide specified in column 4 of Table 7.

Notes

[1] The concentrations in this table were calculated using methods adopted by the Health Protection Agency in their document HPA-CRCE-005 - Derivation of Liquid Exclusion or Exemption Levels to Support the RSA93 Exemption Order Review, published in Chilton, Oxfordshire in August 2010 (ISBN 0-978-85951-673-0).

Commencement

Sch. 23(6)(s. h) para. 28(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. h) para. 28(1)-(4)(b): England, Wales

Law In Force

29. Interpretation of this Section

In this Section, where any radionuclide carries the suffix "+" or "sec"—

(a) that radionuclide represents the parent radionuclide in secular equilibrium with the corresponding daughter radionuclides which are identified in column 2 of Table 8 adjacent to that parent radionuclide, and

(b) a concentration or activity value given in respect of such a parent radionuclide is the value for the parent radionuclide alone, but already takes into account the daughter radionuclides in column 2 that are present.

Commencement

Sch. 23(6)(s. h) para. 29(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. h) para. 29(a)-(b): England, Wales

Law In Force

30. Table 8

The Table 8 referred to in paragraph 29 is—

Table 8

Radionuclides in secular equilibrium

Parent radionuclide	*Daughter radionuclides*
Sr-90+	Y-90
Zr-93+	Nb-93m
Zr-95+	Nb-95
Zr-97+	Nb-97
Ru-106+	Rh-106
Ag-108m+	Ag-108
Cs-137+	Ba-137m
Ba-140+	La-140
Ce-144+	Pr-144
Pb-210+	Bi-210, Po-210
Pb-212+	Bi-212, Tl-208, Po-212
Bi-212+	Tl-208, Po-212
Rn-220+	Po-216
Rn-222+	Po-218, Pb-214, Bi-214, Po-214
Ra-223+	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224+	Where Ra-224+ is referred to in Table 5: Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212 Where Ra-224+ is referred to in Table 7: Pb-212
Ra-226+	Where Ra-226+ is referred to in [Table 4A and] [1] Table 5: Rn-222, Po-218, Pb-214, Bi-214, [Po-214, Pb-210, Bi-210, Po-210] [2] Where Ra-226+ is referred to in Table 7: Rn-222, Po-218, Pb-214, Bi-214, Po-214
Ra-228+	Ac-228
Th-226+	Ra-222, Rn-218, Po-214
Th-228+	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208
Th-229+	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-232 sec	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208
Th-234+	Pa-234m
U-230+	Th-226, Ra-222, Rn-218, Po-214
U-232+	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212
U-235+	Th-231
U-238+	Th-234, Pa-234m, Pa-234
U-238 sec	Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214 [, Po-214, Pb-210, Bi-210, Po-210] [2]
U-240+	Np-240
Np-237+	Pa-233
Am-242m+	Am-242

Parent radionuclide	*Daughter radionuclides*
Am-243+	Np-239

Notes

[1] Words inserted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

[2] Words substituted by Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018/428 Sch.1 para.1 (May 2, 2018)

Commencement

Sch. 23(6)(s. h) para. 30: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(6)(s. h) para. 30: England, Wales

PART 7

Radioactivity to be disregarded

Law In Force

1.— Application

(1) For the purposes of the matters referred to in sub-paragraph (2), no account is to be taken of any radioactivity possessed by a substance or article or by a part of any premises.

(2) The matters are—

(a) the operation of a provision to which this Part applies,

(b) the exercise of a power conferred by, or for the enforcement of, a provision to which this Part applies, and

(c) the performance of a duty imposed by, or for the enforcement of, a provision to which this Part applies.

(3) This Part applies to a provision—

(a) specified in paragraph 2,

(b) contained in an instrument made under a provision so specified,

(c) which has effect by virtue of a provision so specified, or

(d) which extends or applies a provision so specified.

(4) This Part also applies to a provision of a local enactment (whenever passed or made and however expressed) insofar as it—

(a) prohibits or restricts—

(i) the disposal or accumulation of waste,

(ii) the disposal or accumulation of a substance which is or causes a nuisance, or

(iii) a disposal or accumulation which causes pollution, or

(b) confers a power, or imposes a duty, on a public authority or an officer of a public authority to take action to prevent, restrict or abate a disposal or accumulation of a description given in paragraph (a).

(5) In sub-paragraph (4)—

(a) a reference to "disposal" in relation to a provision to which this Part applies, means—

(i) the discharge or deposit of a substance, or

(ii) the allowing of a substance to escape or to enter a stream or other place,

as may be mentioned in that provision, and

(b) "local enactment" means—

(i) a local or private Act,

(ii) an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure, or

(iii) an order confirmed by the National Assembly for Wales or brought into operation in accordance with special procedure in the Assembly.

Commencement

Sch. 23(7) para. 1(1)-(5)(b)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(7) para. 1(1)-(5)(b)(iii): England, Wales

Law In Force

2.— Provisions of enactments

(1) The provisions referred to in paragraph 1(3) are those listed in Table 9 below.

(2) References to provisions of the 1991 Act have effect subject to the power conferred by section 98 of that Act[1].

Table 9

Statutory provisions in respect of which radioactivity is to be disregarded

Act	*Provisions*
Public Health Act 1936	Sections 48, 79, 81, 82, 141, 259 and 261[2].
Water Act 1945	Section 18[3] so far as it continues to have effect by virtue of Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991[4] or by virtue of provisions of the Control of Pollution Act 1974 not having been brought into force.
Salmon and Freshwater Fisheries Act 1975	Section 4[5].
Building Act 1984	Section 59[6].
The Planning (Hazardous Substances) Act 1990	The whole Act.
The 1990 Act	Part 3[7] (subject to regulation 47(3) of the Waste (England and Wales) Regulations 2011[8]).
Water Industry Act 1991	Sections 72, 111 and 113(6)[9].

Act	*Provisions*
	In Part 4, Chapter 3[10] . In Schedule 8, paragraphs 2 to 4[11] so far as they re-enact provisions of sections 43 and 44 of the Control of Pollution Act 1974[12] .
The 1991 Act	Sections 82, 84, 92, 93, 161-161D, 190, 202 and 203[13] . In Schedule 25, paragraph 6[14] .
Clean Air Act 1993	Section 16.
Marine and Coastal Access Act 2009	Section 155.

Notes

1 Section 98 was amended by S.I. 2010/675.

2 Section 48 was amended by paragraph 2(1) of Schedule 1 and Part 1 of Schedule 3 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60). Section 79 is prospectively repealed by paragraph 7 of Schedule 3, and Schedule 4, to the Control of Pollution Act 1974 (c. 40) as from a day to be appointed. Section 82 was amended by paragraph 18(2) of Part 1 of Schedule 11 to the London Government Act 1963 (c. 33). Section 141 was amended by paragraph 4(2) of Schedule 15 to the 1990 Act. Section 259 was amended by Schedule 4 to the Control of Pollution Act 1974 and paragraph 4(3) of Schedule 15 to the 1990 Act.

3 Section 18 is prospectively repealed by Schedule 4 to the Control of Pollution Act 1974 as from a day to be appointed.

4 Schedule 2 was amended by paragraph 29(3) of Part 2 of Schedule 7 to the Water Act 2003 (c. 37).

5 Section 4 was amended by section 233 (2)(a) of, and Part 5(B) of Schedule 22 to, the Marine and Coastal Access Act 2009 (c. 23), and by S.I. 2013/755 (W. 90).

6 Section 59 was amended by Part 1 of Schedule 6 to the Airports Act 1986 (c. 31), section 5(b) of, and the Schedule to, the Sustainable and Secure Buildings Act 2004 (c. 22) and by S.I. 2001/3335, 4050, 2002/440 and 2011/2491. It is prospectively amended by paragraph 26(3) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29) from a date to be appointed.

7 Part 3 was amended by Part 1 of Schedule 16 to the 1990 Act, paragraph 4 of Schedule 4, and Schedule 6, to the Clean Air Act 1993 (c. 11), sections 2 to 5 and 10 of the Noise and Statutory Nuisance Act 1993 (c. 40), paragraph 17(5) of Schedule 9 to the Local Government (Wales) Act 1994, paragraph 27 of Schedule 3 to the Vehicle Excise and Registration Act 1994 (c. 22), paragraph 89(2) and (3) of Schedule 22, and Schedule 24, to the 1995 Act, paragraphs 3 and 6 of Schedule 2 to the Pollution Prevention and Control Act 1999 (c. 24), and sections 86, 101, 102 and 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), and by S.I 2000/1973 and 2015/664. It is prospectively amended by Schedule 3 to the Pollution Prevention and Control Act 1999 from a date to be appointed.

8 To which there are amendments not relevant to these Regulations.

9 Section 72 was amended by paragraph 21 of Schedule 8 to the Water Act 2003 and paragraph 69 of Schedule 7 to the Water Act 2014 (c. 21). Section 111 was amended by paragraph 39(2) of Schedule 7 to the Water Act 2003.

10 Chapter 3 of Part 4 was amended by paragraph 89(a) of Schedule 13 to the Merchant Shipping Act 1995 (c. 21), paragraphs 105 to 113 of Schedule 22, and Schedule 24, to the 1995 Act, section 36(2) of the Water Act 2003, and paragraph 1(2) of Part 1 of Schedule 11 to the Constitutional Reform Act 2005 (c. 4), and by S.I. 2000/1973, 2007/3538, 2010/675, 2011/1043 and 2013/755 (W. 90). It is prospectively amended by Schedule 3 to the Pollution Prevention and Control Act 1999, by sections 88(1), (3) and (4) and 89 of, and Part 3 of Schedule 9 to, the Water Act 2003, and by section 66(2) of the Environment (Wales) Act 2016 (anaw. 3) from a date to be appointed.

11 Paragraph 2 of Schedule 8 is prospectively amended by paragraph 123 of Schedule 7 to the Water Act 2014 from a date to be appointed. Paragraphs 3 and 4 were amended by section 36(2) of the Water Act 2003.

12 Section 43 was repealed by Part 1 of Schedule 3 to the Water Consolidation (Consequential Provisions) Act 1991. Section 44 was repealed by Part 1 of Schedule 27 to the Water Act 1989 (c. 15) and Part 1 of Schedule 3 to the Water Consolidation (Consequential Provisions) Act 1991.

13 Section 84 was amended by S.I 2010/675 and 2013/755 (W. 90). Section 92 was amended by paragraph 144 of Schedule 22 to the 1995 Act, and by S.I 2010/675 and 2013/755 (W. 90). Section 93 was amended by S.I 2009/3104

and 2013/755 (W. 90). Section 161 was substituted, together with sections 161ZA-161ZC, 161A, 161AA, 161AB, by S.I. 2009/3104. Sections 161, 161ZA, 161ZB, 161A and 161AA were amended by S.I 2013/755 (W. 90). Sections 161ZC and 161AB were amended by S.I 2010/675 and 2013/755 (W. 90). Sections 161B to 161D were inserted by paragraph 162 of Schedule 22 to the 1995 Act. Section 161B was amended by S.I 2007/3538 and 2013/755 (W. 90). Sections 161D was amended by S.I 2013/755 (W. 90) and 2015/664. Section 190 was amended by paragraph 169 of Schedule 22, and Schedule 24, to the 1995 Act, and by S.I 2010/675 and 2013/755 (W. 90). Section 202 was amended by paragraph 172 of Schedule 22, and Schedule 24, to the 1995 Act. Section 203 was amended by paragraph 128 of Schedule 22 to the 1995 Act, paragraph 53(2) of Schedule 8 to the Water Act 2003, and paragraph 125 of Schedule 7 to the Water Act 2014, and by S.I 2007/3538.

[14] Paragraph 6 of Schedule 25 was amended by paragraph 26 of Schedule 15 to the 1995 Act, section 224 of, and paragraph 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the Marine and Coastal Access Act 2009, and by S.I. 2013/755 (W. 90).

Commencement

Sch. 23(7) para. 2(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 23(7) para. 2(1)-(2): England, Wales

SCHEDULE 24

Efficiency in heating and cooling energy: Energy Efficiency Directive

Regulation 35(1)

Law In Force

1.— Interpretation

(1) In this Schedule—

"cogeneration" means the simultaneous generation in one process of thermal energy and electrical or mechanical energy;

"connection distance" means—

(a) in the case of a hot water link, the thermal capacity in kilowatts of the source or demand, whichever is smaller, multiplied by 0.0038, or

(b) in the case of a steam heat link, the thermal capacity in kilowatts of the source or demand, whichever is smaller, multiplied by 0.0012,

expressed in kilometres;

"cost-benefit analysis" means a cost-benefit analysis in accordance with Part 2 to Annex IX to the Energy Efficiency Directive;

"economically justified demand" means demand that does not exceed the needs for heating or cooling and which would otherwise be satisfied at market conditions by energy generation processes other than cogeneration;

"high-efficiency cogeneration" means cogeneration meeting the criteria laid down in Annex II to the Energy Efficiency Directive;

"installation" means—

(a) a stationary technical unit where one or more activities listed in Part 2 of Schedule 1 are carried on, **[…]**[1]

(b) a small waste incineration plant **[** , or **]** [2]

[(c) a medium combustion plant; **]** [2]

"relevant installation" means an installation carrying on—

(a) an activity described in Part A(1) of Section 1.1 of Part 2 of Schedule 1,

(b) an activity described in Part A(1) of Section 5.1 of Part 2 of Schedule 1,

(c) an activity described in paragraph (a) of Part B of Section 1.1 of Part 2 of Schedule 1 , **[…]**[3]

(d) a small waste incineration plant operation **[** , or **]** [4]

[(e) a medium combustion plant operation; **]** [4]

"substantially refurbished" means, subject to sub-paragraph (2)(e), a refurbishment the cost of which exceeds 50% of the investment cost for a new comparable energy plant.

(2) For the purposes of this Schedule—

(a) the definition of "offshore platform" in paragraph 3 of Part A(1) of Section 1.1 of Part 2 of Schedule 1 also includes any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs,

(b) the definition of "petroleum" in paragraph 4 of Part A(1) of Section 1.1 of Part 2 of Schedule 1 also includes coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation,

(c) a reference to an installation means an installation which has a net rated thermal input exceeding 20 megawatts,

(d) where two or more small waste incineration plants falling within Schedule 13 with an aggregate net thermal input exceeding 20 megawatts are operated on the same site by the same operator, those small waste incineration plants must be treated as a single installation with a rated thermal input exceeding 20 megawatts, and

(e) refurbishment does not include the fitting of equipment to carry out the activity described in Part A(1) of Section 6.10 of Part 2 of Schedule 1.

Notes

1 Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.15(a)(i) (January 30, 2018)

2 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.15(a)(ii) (January 30, 2018)

3 Word revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.15(b)(i) (January 30, 2018)

4 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.15(b)(ii) (January 30, 2018)

Commencement

Sch. 24 para. 1(1)-(2)(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 24 para. 1(1)-(2)(e): England, Wales

Law In Force

2.— Electricity generating installations

(1) An application for the grant of an environmental permit under regulation 13(1) for a relevant installation which generates electricity must contain a cost-benefit analysis which assesses the cost and benefits of providing for the operation of the installation as a high-efficiency cogeneration installation.

(2) The regulator must exercise its relevant functions to ensure that an application for a variation of an environmental permit under regulation 20(1) is made before the energy plant of a relevant installation which generates electricity is substantially refurbished.

(3) The regulator must ensure that an application for a variation of an environmental permit required by sub-paragraph (2) contains (in addition to the information required by paragraph 2(1)(b) of Schedule 5) a cost-benefit analysis which assesses the cost and benefits of converting the relevant installation to high-efficiency cogeneration.

(4) The requirement for a cost-benefit analysis in sub-paragraph (1) or (3) does not apply to peak load and back-up electricity generating relevant installations for which the application for the grant or a variation of an environmental permit states that operation under 1,500 operating hours per year as a rolling average over a period of 5 years is planned.

(5) In the case of a relevant installation to which sub-paragraph (4) applies, the regulator must ensure that, if an environmental permit is granted or varied, it includes conditions ensuring that the operating hours for the installation remain within that constraint.

Commencement

Sch. 24 para. 2(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 24 para. 2(1)-(5): England, Wales

Law In Force

3.— Installations generating waste heat

(1) An application for the grant of an environmental permit under regulation 13(1) for an installation generating waste heat at a useful temperature level, other than a relevant installation falling within paragraph 2(1), must contain a cost-benefit analysis.

(2) The regulator must exercise its relevant functions to ensure that an application for a variation of an environmental permit under regulation 20(1) is made before the energy plant of an installation generating waste heat at a useful temperature level, other than a relevant installation falling within paragraph 2(2), is substantially refurbished.

(3) The regulator must ensure that an application for a variation of an environmental permit under sub-paragraph (2) contains (in addition to the information required by paragraph 2(1)(b) of Schedule 5) a cost-benefit analysis.

(4) The cost-benefit analysis required by sub-paragraphs (1) and (3) must include an assessment of the cost and benefits of—

(a) utilising the waste heat to satisfy economically justified demand, including through cogeneration, and
(b) the connection of that installation to a district heating and cooling network.

Commencement

Sch. 24 para. 3(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 24 para. 3(1)-(4)(b): England, Wales

Law In Force

4.— Heating and cooling networks

(1) An application for the grant of an environmental permit under regulation 13(1) for a relevant installation which forms part of a new district heating and cooling network or existing district heating or cooling network, must contain a cost-benefit analysis.

(2) The regulator must exercise its relevant functions to ensure that an application for a variation of an environmental permit under regulation 20(1) is made before the energy plant of a relevant installation which forms part of a district heating and cooling network is substantially refurbished.

(3) An application for the variation of an environmental permit required by sub-paragraph (2) must contain (in addition to the information required by paragraph 2(1)(b) of Schedule 5) a cost-benefit analysis.

(4) The cost-benefit analysis required by sub-paragraphs (1) and (3) must include an assessment of the cost and benefits of utilising the waste heat from nearby installations.

Commencement

Sch. 24 para. 4(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 24 para. 4(1)-(4): England, Wales

Law In Force

5. Thresholds

Paragraphs 3 and 4 do not apply to an installation, except an installation which forms part of a district cooling network, with any of the following—

(a) available waste heat of 100 kilowatts or less;
(b) available waste heat—
  (i) greater than 100 kilowatts as hot water or steam, where there is no hot water heat demand greater than 100 kilowatts within the search radius from the installation as set out in the table below, and located within the connection distance from the centre of the installation, or

(ii) greater than 500 kilowatts as steam where there is no steam-based heat demand greater than 500 kilowatts and no hot water heat demand greater than 100 kilowatts within the search radius from the centre of the source installation as set out in the table below, and located within the connection distance from the centre of the source installation;

(c) a heat demand of—

(i) 100 kilowatts or less for a hot water heat demand, or

(ii) 500 kilowatts or less for a steam-based heat demand;

(d) a hot water heat demand greater than 100 kilowatts, with no source of available waste heat greater than 100 kilowatts within the search radius from the centre of the demand installation as set out in the table below, and located within the connection distance from the centre of the demand installation;

(e) a steam-based heat demand greater than 500 kilowatts, with no source of steam-based waste heat greater than 500 kilowatts within the search radius from the centre of the installation as set out in the table below, and located within the connection distance from the centre of the demand installation.

Search radius

Installation type	***Thermal capacity of heat source/demand***	***Search radius (kilometres), measured from the centre of the installation***
Hot water demand	>100 kilowatts and <3.9 megawatts	0.0038 x H, where H = thermal capacity in kilowatts
	≥ 3.9 megawatts	15
Steam demand	>500 kilowatts and <12.5 megawatts	0.0012 x H, where H = thermal capacity in kilowatts
	≥ 12.5 megawatts	15
Waste heat source (hot water or steam)	>100 kilowatts and <3.9 megawatts	0.0038 x H, where H = thermal capacity in kilowatts
	≥ 3.9 megawatts	15

Commencement

Sch. 24 para. 5(a)-(e): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 24 para. 5(a)-(e): England, Wales

Law In Force

6.— Determination of applications

(1) When considering an application for an environmental permit, or for a variation of an environmental permit, in accordance with this Schedule, the regulator must take into account—

(a) the outcome of the cost-benefit analysis carried out in accordance with this Schedule, and

(b) the outcome of any comprehensive assessment carried out in accordance with [regulation 4(2)(a) of the Energy Efficiency (Encouragement, Assessment and Information) Regulations 2014] [1] .

(2) Subject to sub-paragraph (4), where a cost-benefit analysis carried out in accordance with paragraphs 2(1), 2(3) and 3(4) shows that benefits exceed costs, the regulator must ensure that any environmental permit that is granted or varied includes appropriate conditions that will ensure the operation of the installation in a manner shown by that analysis to be cost beneficial.

(3) Subject to sub-paragraph (4), where a cost-benefit analysis carried out in accordance with paragraph 4(4) shows that benefits exceed costs, the regulator must ensure that any environmental permit that is granted or varied contains appropriate conditions that will ensure the operation of the installation, in conjunction with the utilisation of the waste heat from nearby installations, in a manner shown by that analysis to be cost beneficial.

(4) Where the cost-benefit analysis carried out in accordance with paragraph 2(1), 2(3), 3(4) or 4(4) shows that benefits exceed costs, the requirement to impose appropriate conditions in accordance with sub-paragraphs (2) and (3) does not apply if, in individual cases, the regulator decides that there are imperative reasons of law, ownership or finance for them not to apply.

(5) The regulator must within 2 months of its decision under sub-paragraph (4) submit a reasoned notification of that decision to the appropriate authority.

(6) This Schedule does not apply to—

(a) installations that need to be located close to a geological storage site approved under [Chapter 3 of Part 1 of the Energy Act 2008 and other EU-derived domestic legislation which transposed Directive 2009/31/EC on the geological storage of carbon dioxide in relation to England and Wales] [2] ;

(b) any relevant installation within a nuclear site, within the meaning given in paragraph 1 of Part 2 of Schedule 23, and which is dedicated to the production of nuclear power;

(c) mobile plant.

(7) Nothing in this Schedule affects the application of the Industrial Emissions Directive to installations.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(25)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[2] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(25)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 24 para. 6(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 24 para. 6(1)-(7): England, Wales

Law In Force

7.— Aggregation of rated thermal input – existing installations

(1) This paragraph applies to a Part B installation that is a regulated facility solely as a result of the aggregation of the net rated thermal input of two or more appliances in accordance with paragraph 2 of Part B of Section 1.1 of Part 2 of Schedule 1.

(2) A Part B installation that was in operation immediately prior to 21st March 2015 is taken to be an exempt facility for the purposes of regulation 8(2).

(3) Sub-paragraph (2) ceases to apply to a Part B installation (so that it is no longer taken to be an exempt facility) if, after 21st March 2015, the energy plant of the Part B installation is substantially refurbished.

Commencement

Sch. 24 para. 7(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 24 para. 7(1)-(3): England, Wales

Law In Force

8.— Existing applications for the grant or variation of an environmental permit

(1) This Schedule does not apply to an existing application.

(2) In sub-paragraph (1), "existing application" mean a duly made application received by the regulator prior to 21st March 2015—

(a) for the grant of an environmental permit pursuant to regulation 13, or

(b) for the variation of an environmental permit pursuant to regulation 20(1).

Commencement

Sch. 24 para. 8(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 24 para. 8(1)-(2)(b): England, Wales

SCHEDULE 25

Flood risk activities and excluded flood risk activities

Regulation 35(1)

PART 1

Flood risk activities

Law In Force

1. Application

This Schedule applies in relation to every flood risk activity.

Commencement

Sch. 25(1) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 1: England, Wales

Law In Force

2.— Interpretation

(1) In this Schedule—

"application" has the meaning given in paragraph 1 of Schedule 5;

"drainage" has the meaning given in section 113(1) of the 1991 Act[1] and "drainage work" is to be construed accordingly;

"emergency" means an occurrence which presents a risk of—

(a) serious flooding;

(b) serious detrimental impact on drainage;

(c) serious harm to the environment;

"flood defence structure" means any permanent works constructed, operated or maintained by the regulator for the purposes of managing flood risk;

"land" includes—

(a) water;

(b) land covered by water;

"main river" has the meaning given in section 113(1) of the 1991 Act[2] ;

"navigation authority" means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

"non-tidal main river" means any part of a main river that is not a tidal main river;

"tidal main river" means that part of a main river downstream of the normal tidal limit;

"unauthorised flood risk activity" means a flood risk activity which is not authorised by an environmental permit but excluding any exempt or excluded flood risk activities;

"watercourse" has the meaning given in section 221 of the 1991 Act[3] , as read with section 113(1) of that Act.

(2) In this Schedule—

(a) except in the definition of "sea defence" in paragraph 3, "bank" means any bank, berm, wall or embankment that adjoins or confines any watercourse and includes the side of the bank that stretches down to the mean low-water mark (in the case of a watercourse in which tidal waters flow) or to the bed of the watercourse (in any other case);
(b) for the purposes of paragraph (a), in the case of a watercourse in which tidal waters flow, the bank includes any wall or embankment constructed or maintained by the regulator in the sea or an estuary for the purposes of or in connection with a river;
(c) any reference to a distance of 8 metres or 16 metres from a river is a reference to that distance as measured horizontally from the foot of the bank on the landward side of the river;
(d) any reference to a distance of 8 metres or 16 metres from any flood defence structure or culvert is a reference to that distance as measured from the foot of the flood defence structure or from the outside edge of the culvert, as the case may be.

Notes

1 The definition of "drainage" was amended by section 100(1) of, and Schedule 24 to, the 1995 Act.

2 The definition of "main river" was amended by section 59(3) of the Water Act 2014 (c. 21).

3 The definition of "watercourse" was amended by paragraph 128 of Schedule 22 to the 1995 Act, section 59(4)(b) of the Water Act 2014, and by S.I. 2013/755 (W. 90).

Commencement

Sch. 25(1) para. 2(1)-(2)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 2(1)-(2)(d): England, Wales

Law In Force

3.— Meaning of "flood risk activity"

(1) Subject to sub-paragraph (2), a "flood risk activity" means—
(a) erecting any structure (whether temporary or permanent) in, over or under a main river;
(b) the carrying out of any work of alteration or repair on any structure (whether temporary or permanent) in, over or under a main river if the work is likely to affect the flow of water in the main river or to affect any drainage work;
(c) erecting or altering any structure (whether temporary or permanent) designed to contain or divert the floodwaters of any part of a main river;
(d) any dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a main river (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging and desilting;
(e) any activity which is likely to divert the direction of the flow of water into or out of a main river or alter the level of water in a main river;
(f) any activity within 8 metres of a non-tidal main river (or within 8 metres of any flood defence structure or culvert on that river) or any activity within 16 metres of a tidal main river (or within 16 metres of any flood defence structure or culvert on that river) which is likely to—

(i) cause damage to or endanger the stability of the banks of that river or of any culvert,

(ii) cause damage to any river control works,

(iii) alter, reconstruct, discontinue or remove any river control works,

(iv) divert or obstruct flood waters or affect the drainage of that river, or

(v) interfere with the regulator's access to or along that river;

(g) any activity (other than an allowed activity) on a flood plain that is—

(i) more than 8 metres from a non-tidal main river or more than 16 metres from a tidal main river, or

(ii) more than 8 metres from any flood defence structure or culvert on a non-tidal main river or more than 16 metres from any flood defence structure or culvert on a tidal main river,

which is likely to divert or obstruct floodwaters, to damage any river control works or to affect drainage;

(h) any activity within 16 metres of the base of a sea defence which is likely to—

(i) endanger the stability of, cause damage to or reduce the effectiveness of that sea defence, or

(ii) interfere with the regulator's access to or along that sea defence;

(i) any activity within 8 metres of the base of a remote defence which is likely to—

(i) endanger the stability of, cause damage to or reduce the effectiveness of that defence, or

(ii) interfere with the regulator's access to or along that defence;

(j) any quarrying or excavation within 16 metres of the base of a remote defence which is likely to cause damage to or endanger the stability of that defence;

(k) any quarrying or excavation within 16 metres of a main river or any flood defence structure or culvert on that river which is likely to cause damage to or endanger the stability of the banks of that river.

(2) The following paragraphs of sub-paragraph (1) are excluded from the definition of flood risk activity in respect of a statutory function to which this sub-paragraph applies—

(a) in respect of England, paragraphs (d) to (k);

(b) in respect of Wales, paragraphs (e) to (k).

(3) Sub-paragraph (2) applies to a statutory function—

(a) exercisable by a person carrying on an undertaking referred to in paragraph 1(4) of Schedule 22 to the 1991 Act, as read with sub-paragraphs (4A) and (5) of that paragraph[1], or

(b) relating to the management of flood risk exercisable by a risk management authority within the meaning of section 6(13) of the Flood and Water Management Act 2010[2].

(4) In this paragraph—

"allowed activity" means—

(a) any activity that has been granted planning permission by a local planning authority or the Secretary of State under the Town and Country Planning Act 1990, a certificate under section 191 of that Act or an established use certificate under section 192 of that Act, as originally enacted[3], which continues to have effect for the purposes of subsection (4) of section 192, or

(b) the construction of hay or straw stacks, clamps or manure (or similar) heaps, in accordance with accepted agricultural practice;

"conservancy authority" means any person who has a duty or power under any enactment to conserve, maintain or improve the navigation of a tidal water and is not a navigation or harbour authority;
"culvert" means a covered channel or pipe which prevents the obstruction of a main river or drainage path by an artificial construction;
"harbour authority" has the meaning given in section 313 of the Merchant Shipping Act 1995[4] , other than a navigation authority;
"remote defence" means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river, other than any berm, wall or embankment which is a bank within the meaning of paragraph 2(2);
"river control works" means any structure or appliance used for measuring or regulating—

(a) the level of water in a main river,
(b) the flow of water in, into or out of, a main river, or
(c) the drawing of water from, or the delivering of water into, a main river,

and includes any sluices, flood gates, lashers, valves, paddles, penstocks, locks, weirs, dams, pumps, pumping machinery and pipes;
"sea defence" includes any bank, wall, embankment (and any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the regulator's area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949 or by any local authority or any navigation, harbour or conservancy authority.

Notes

1 Paragraph 1 of Schedule 22 was amended by paragraph 43(1) of Schedule 9 to the Coal Industry Act 1994 (c. 21), paragraph 15 of Schedule 5 to the Transport Act 2000 (c. 38), paragraph 114(2) of Schedule 17 to the Communications Act 2003 (c. 21), paragraph 18 of Schedule 19 to the Energy Act 2004 (c. 20), paragraph 138 of Part 3 of Schedule 12 to the Postal Services Act 2011 (c. 5), and by S.I. 2001/1149 and 2013/755 (W. 90).

2 Section 6(13) was amended by S.I. 2013/755 (W. 90).

3 Sections 191 and 192 were substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34).

4 The definition of "harbour authority" was substituted by paragraph 19(2)(a) of Schedule 6 to the Merchant Shipping and Maritime Security Act 1997 (c. 28).

Commencement

Sch. 25(1) para. 3(1)-(4) definition of "sea defence": January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 3(1)-(4) definition of "sea defence": England, Wales

Law In Force

4. Excluded flood risk activities

An "excluded flood risk activity" means a flood risk activity that—

(a) falls within a description in Part 2 of this Schedule, and

(b) satisfies the conditions specified in Part 2 of this Schedule for an activity of that description.

Commencement

Sch. 25(1) para. 4(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 4(a)-(b): England, Wales

Law In Force

5. Exercise of relevant functions

The regulator must exercise its relevant functions for the purposes of achieving the following objectives—

(a) managing flood risk;

(b) managing impacts on land drainage;

(c) environmental protection.

Commencement

Sch. 25(1) para. 5(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 5(a)-(c): England, Wales

Law In Force

6. Conditions for operation and maintenance of structures and works

Without prejudice to its powers to grant an application subject to such conditions as it sees fit, the regulator may grant an application subject to such conditions relating to—

(a) the operation and maintenance of such structure or works as the regulator considers to be necessary—

(i) to manage impacts on land drainage,

(ii) to manage flood risk, or

(iii) to secure environmental protection;

(b) access by the regulator to any structure, works or watercourse, including access to any surrounding land where this is necessary to access the structure, works or watercourse.

Commencement

Sch. 25(1) para. 6(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 6(a)-(b): England, Wales

Law In Force

7.— Emergency works notice

(1) In an emergency, the regulator may serve an emergency works notice on the operator, owner or occupier of the premises or any other person responsible for a flood risk activity ("A").

(2) An emergency works notice may be served whether or not the activity is an excluded or an exempt flood risk activity.

(3) An emergency works notice may require A—

(a) to remove any specified structure in accordance with requirements set out in the notice;

(b) to modify any specified structure in accordance with requirements set out in the notice;

(c) to carry on the activity in accordance with requirements set out in the notice;

(d) to remedy the environmental effects caused by the activity in accordance with requirements set out in the notice;

(e) not to carry on the activity without an environmental permit, unless the activity is an excluded or exempt activity.

(4) An emergency works notice must—

(a) specify the period within which A must comply with the notice requirements;

(b) set out the rights of appeal that A has under regulation 31(1)(f).

(5) In sub-paragraph (3)(d), "environmental effects" means—

(a) flooding or risk of flooding;

(b) harm to the environment or risk of harm to the environment;

(c) detrimental impact on drainage or risk of detrimental impact on drainage.

Commencement

Sch. 25(1) para. 7(1)-(5)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 7(1)-(5)(c): England, Wales

Law In Force

8.— Remediation notice

(1) Where the regulator considers that an unauthorised flood risk activity is being or has been carried on, it may serve a remediation notice on the operator, owner or occupier of the premises or any other person responsible for the unauthorised flood risk activity ("A").

(2) The remediation notice must—

(a) state the regulator's view under sub-paragraph (1);

(b) specify the steps that must be taken by A;

(c) specify the period within which those steps must be taken;

(d) set out the rights of appeal that A has under regulation 31(1)(f).

(3) Steps that may be specified in the remediation notice include steps—

(a) to cease carrying on the activity;

(b) to carry on the activity in a particular manner;

(c) to remove or reduce flood risk;
(d) to remedy detrimental impact on drainage;
(e) to remedy harm to the environment;
(f) to restore the main river to its previous condition or a condition otherwise specified in the notice.

(4) Where—
(a) the regulator has served a notice on A, but A does not comply with the remediation notice within the time specified in the notice, or
(b) the regulator determines that it is not possible or practical to serve a remediation notice on A,
the regulator may serve a remediation notice on any other person who appears to the regulator to have the necessary authority to take the steps specified in the notice.

(5) Where a notice is served under sub-paragraph (4), sub-paragraphs (2) and (3) apply as if the references in those sub-paragraphs to "A" are references to the person on whom a notice under sub-paragraph (4) is served.

Commencement

Sch. 25(1) para. 8(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 8(1)-(5): England, Wales

Law In Force

9.— Regulator's power to take steps to remove and remedy etc.

(1) Subject to paragraph 10(4) and (5), the regulator may take steps to—
(a) remove, alter or pull down any works carried out pursuant to an unauthorised flood risk activity;
(b) remedy the effects caused by an unauthorised flood risk activity.

(2) Before taking any steps under sub-paragraph (1) the regulator must serve a notice of intent on the person responsible for the unauthorised flood risk activity ("A").

(3) The requirement to serve a notice of intent under sub-paragraph (2) does not apply where the regulator—
(a) is required to act in an emergency, or
(b) cannot determine who is the person responsible for the unauthorised flood risk activity.

(4) A notice of intent must—
(a) specify the steps the regulator intends to take;
(b) specify the date on which the regulator intends to take those steps;
(c) set out the rights of appeal that A has under regulation 31(1)(f).

(5) Where the regulator determines that it is not possible or practical to serve a notice of intent on A, the regulator may serve the notice on any other person who it appears to the regulator may be affected.

(6) Where a notice is served under sub-paragraph (5), sub-paragraph (4)(c) applies as if the reference in that sub-paragraph to "A" is a reference to the person on whom a notice under sub-paragraph (5) is served.

(7) The regulator may recover from A, or a person served with a notice under sub-paragraph (5), the costs of any steps taken by the regulator under sub-paragraph (1).

Commencement

Sch. 25(1) para. 9(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 9(1)-(7): England, Wales

Law In Force

10.— Protected undertakings, railways and bridges

(1) For the purposes of this paragraph, "protected undertaking" means the undertakings referred to in paragraph 1(4) of Schedule 22 to the 1991 Act, as read with sub-paragraphs (4A) and (5) of that paragraph.

(2) The regulator must not exercise its functions under these Regulations in relation to any flood risk activity in a manner that prejudices the exercise of any statutory power, authority or jurisdiction by a person carrying on a protected undertaking.

(3) Sub-paragraph (2) does not have the effect of exempting any person carrying on a protected undertaking from the requirement to hold an environmental permit.

(4) The regulator must obtain the consent of the person carrying on a protected undertaking where—

(a) the regulator is proposing to take steps under paragraph 9(1) that will directly or indirectly interfere with works or property (or with the use of works or property) vested in, or under the control of, a person carrying on that undertaking, and

(b) that interference will adversely affect those works, that property (or with the use of those works or that property) or the carrying on of that undertaking.

(5) Sub-paragraph (4) does not apply where the regulator is required to act in an emergency but, in such a case, the regulator must notify the person carrying on the protected undertaking as soon as possible of any steps that have been taken under paragraph 9(1).

(6) Without prejudice to the preceding provisions of this paragraph, nothing in these Regulations that relates to a flood risk activity authorises any person, except with the consent of the railway company in question, to interfere with—

(a) any railway bridge or any other work connected with a railway, or

(b) the structure, use or maintenance of a railway or the traffic on it.

(7) Where consent is required under sub-paragraph (4) or (6), the consent may be subject to reasonable conditions but must not be unreasonably withheld.

(8) There must be a referral to the arbitration of a single arbitrator, to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers[1], of any dispute as to whether—

(a) anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraphs (4) and (6);
(b) any consent for the purposes of this paragraph is being unreasonably withheld;
(c) any condition subject to which any such consent has been given is reasonable.

(9) Nothing in this Schedule affects any enactment requiring the consent of any government department, Minister or Welsh Minister for the erection of a bridge, or any powers exercisable by any government department, Minister or Welsh Minister in relation to a bridge.

Notes

[1] Registered charity number 210252.

Commencement

Sch. 25(1) para. 10(1)-(9): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(1) para. 10(1)-(9): England, Wales

PART 2

Excluded flood risk activities

SECTION 1

Introductory

Law In Force

1.—

(1) The descriptions in this Part are set out in paragraphs 2 to 13, in their respective first sub-paragraphs.

(2) The specific conditions relating to each description in this Part are set out in paragraphs 2 to 13, in their respective second sub-paragraphs.

(3) The general condition for the descriptions in paragraphs 3 to 13 of this Part is that the activity is not carried out in, or (where the activity is carried out in Wales) within 100 metres of, a water body in Wales that is part of a main river classified as of high morphological status by the NRBW in accordance with the relevant directions.

(4) For the purposes of paragraphs 3 and 4, "licensable marine activity" and "marine licence" have the same meaning as in Part 4 of the Marine and Coastal Access Act 2009[1].

(5) For the purposes of this Part, "relevant directions" means the Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015[2].

Notes

[1] 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.

[2] These Directions were made on 9th September 2015 in exercise of powers in section 40(2) of the 1995 Act and are available at http://www.legislation.gov.uk/uksi/2015/1623/pdfs/uksiod_20151623_en.pdf. A copy may be obtained from the Flood Risk Management Team, the Department for Environment, Food and Rural Affairs, Area 3C, Nobel House, 17 Smith Square, London SW1P 3JR.

Commencement

Sch. 25(2)(s.) para. 1(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s.) para. 1(1)-(5): England, Wales

SECTION 2

Descriptions and conditions

Law In Force

2.— Emergency activity

(1) Any activity carried on in an emergency.

(2) For the purposes of this paragraph, the specific conditions are that—

(a) the activity is not a pre-planned emergency activity, and

(b) the person carrying on the activity provides the regulator with notice in writing as soon as practicable of the carrying on of the activity and the circumstances in which it was carried on.

(3) For the purposes of sub-paragraph (2)(a), a "pre-planned emergency activity" means any activity which has been planned in response to an emergency before it occurs.

(4) The power of the regulator to serve a remediation notice under paragraph 8 of Part 1 of this Schedule applies where an activity has been carried on in reliance on this exclusion as if that activity were an unauthorised activity.

Commencement

Sch. 25(2)(s. a) para. 2(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 2(1)-(4): England, Wales

Law In Force

3.— A licensable marine activity in England

(1) A licensable marine activity in England.

(2) For the purposes of this paragraph, the specific conditions are that—

(a) an application for a marine licence has been made in respect of that activity,

(b) the Agency has received notice that the application has been made,

(c) in view of the terms and conditions that will be included in the marine licence, the Agency considers that an environmental permit is not necessary, and

(d) a notice to that effect has been issued by the Agency to the applicant.

Commencement

Sch. 25(2)(s. a) para. 3(1)-(2)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 3(1)-(2)(d): England, Wales

Law In Force

4.— A licensable marine activity in Wales

(1) A licensable marine activity in Wales.

(2) For the purposes of this paragraph, the specific condition is that an application for a marine licence has been made in respect of that activity.

Commencement

Sch. 25(2)(s. a) para. 4(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 4(1)-(2): England, Wales

Law In Force

5.— [Ladders, scaffold towers and other similar apparatus] [1]

(1) The erection and use of ladders [, scaffold towers and other similar apparatus used for access, maintenance or repair] [2] ("equipment").

(2) For the purposes of this paragraph, the specific conditions are—

(a) the suitability of river conditions is reviewed by the operator each working day,

(b) the equipment is erected on each working day on which it is required, and

(c) the equipment is removed at the end of each working day and is stored outside the river and its banks.

Notes

[1] Words substituted by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(7)(a) (January 7, 2019)

[2] Words substituted by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 3 reg.4(7)(b) (January 7, 2019)

Commencement

Sch. 25(2)(s. a) para. 5(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 5(1)-(2)(c): England, Wales

Law In Force

6.— Service crossings within an existing structure

(1) The construction and use of service crossings within an existing structure.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the crossing is entirely within the original profile of the existing structure,

(b) the regulator has not sent a notification to the landowner that the structure has been identified for removal or modification in order to achieve the [environmental objectives in relation to a river basin district] [1] ,

(c) equipment associated with the works is not stored on the bed or banks of the main river, and

(d) no works are carried out from the main river or from the banks of the main river.

Notes

[1] Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(26) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 25(2)(s. a) para. 6(1)-(2)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 6(1)-(2)(d): England, Wales

Law In Force

7.— Flood protection devices attached to buildings

(1) The attachment of a flood protection device directly to a building in order to protect the interior of that building.

(2) For the purposes of this paragraph, the specific condition is that the flood protection provided by the device extends only to the building to which the device is fitted.

Commencement

Sch. 25(2)(s. a) para. 7(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 7(1)-(2): England, Wales

Law In Force

8.— Minor works on or affecting bridges and culverts

(1) The carrying out of minor works on or affecting bridges and culverts for highways and public rights of way ("minor works").

(2) For the purposes of this paragraph, the specific conditions are—

(a) the minor works do not affect, or have the potential to affect, the bed, banks, water level, normal flow or flood flow in the main river,

(b) equipment associated with the minor works is not stored on the bed or banks of the main river, and

(c) no works are carried out from the main river or from the banks of the main river.

Commencement

Sch. 25(2)(s. a) para. 8(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 8(1)-(2)(c): England, Wales

Law In Force

9.— Fencing

(1) The erection of fencing.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the fencing is not located on the bed or banks of the main river, and
(b) the fencing is constructed of—
(i) post and rail,
(ii) post and wire mesh of at least 100 mm spacing, or
(iii) post and wire strands.

Commencement

Sch. 25(2)(s. a) para. 9(1)-(2)(b)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 9(1)-(2)(b)(iii): England, Wales

Law In Force

10.— Fish traps

(1) The temporary use of fish traps.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the trap has dimensions of no greater than 2 metres x 1 metre x 0.75 metre,
(b) any trap, or combination of traps, placed in the main river is less than one third of the width of the channel,
(c) the trap is not used when the main river is in a condition of high flow, and
(d) the trap is located more than 50 metres upstream or downstream from any dam or other obstruction.

Commencement

Sch. 25(2)(s. a) para. 10(1)-(2)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 10(1)-(2)(d): England, Wales

Law In Force

11.— Notice boards

(1) Erection of notice boards.

(2) For the purposes of this paragraph, the specific conditions are—
(a) the board is attached to existing fencing or freestanding, permanent posts,
(b) the board is more than 2 metres from any culvert, remote defence or flood defence structure on the main river and from any sea defence, and
(c) the board is more than 2 metres from the landward side of the bank.

Commencement

Sch. 25(2)(s. a) para. 11(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 11(1)-(2)(c): England, Wales

Law In Force

12.— Purpose-built sediment traps

(1) Clearance of purpose-built sediment traps.

(2) For the purposes of this paragraph, the specific conditions are—

(a) only sand and silt is cleared from the trap,

(b) the works do not result in sand or silt being transmitted downstream, and

(c) where the sand and silt from the clearance is spread on the floodplain, it is spread to a depth of no more than 100mm and no closer than 8 metres from the landward side of either bank.

Commencement

Sch. 25(2)(s. a) para. 12(1)-(2)(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 12(1)-(2)(c): England, Wales

Law In Force

13.— Site investigation boreholes and trial pits

(1) Site investigation boreholes and trial pits within a flood plain.

(2) For the purposes of this paragraph, the specific conditions are—

(a) the works are more than 5 metres from any culvert, remote defence or flood defence structure on the main river and from any sea defence,

(b) the works are more than 8 metres from the banks of a non-tidal main river,

(c) the works are more than 16 metres from the banks of a tidal main river, and

(d) the works are completed, including refilling of the borehole or pit, within 48 hours.

Commencement

Sch. 25(2)(s. a) para. 13(1)-(2)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 25(2)(s. a) para. 13(1)-(2)(d): England, Wales

[SCHEDULE 25A

Medium Combustion Plants: Medium Combustion Plant Directive

Regulation 35(1)

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

[PART 1

General

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Law In Force

[1. Application

This Schedule applies—

(a) in relation to every new medium combustion plant from 20th December 2018,

(b) in relation to every existing medium combustion plant from the date specified in regulation 12(1A)(b) or (c), as appropriate.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25A(1) para. 1(a)-(b): England, Wales

Law In Force

[2.— Interpretation

(1) In this Schedule—

"existing medium combustion plant" means a medium combustion plant—

(a) put into operation before 20th December 2018, or

(b) for which an environmental permit was granted before 19th December 2017, provided that the plant is put into operation no later than 20th December 2018;

"the MCPD" means the Medium Combustion Plant Directive;

"medium combustion plant" means a combustion plant with a rated thermal input equal to or greater than 1 megawatt but less than 50 megawatts, and any combination of combustion plants referred to in article 2(2) or article 4 of the MCPD, provided that—

(a) it does not fall within Article 2(3) or (4)of the MCPD,

(b) it is not installed on an offshore platform situated on, above or below those parts of the sea adjacent to England and Wales from the low water mark to the seaward baseline of the United Kingdom territorial sea,

(c) it is not installed on a gas storage or unloading platform as defined in regulation 2 of the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013;

"new medium combustion plant" means a medium combustion plant which is not an existing medium combustion plant.

(2) In sub-paragraph (1), "offshore platform" means any fixed or floating structure which—

(a) is used for the purposes of or in connection with the production of petroleum, and

(b) in the case of a floating structure, is maintained on a station during the course of production,

but does not include any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs.

(3) In sub-paragraph (2), "petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

(4) **[…]**[2]

][1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

[2] Revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(27)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Extent

Sch. 25A(1) para. 2(1)-(4)(d): England, Wales

Law In Force

[3.— Applications for the grant of an environmental permit

(1) The regulator must ensure that every application for the grant of an environmental permit—

(a) includes the information specified in Annex I to the MCPD;

(b) specifies which (if any) of paragraphs 7 to 11 of this Schedule is considered relevant to the application.

(2) Subject to sub-paragraph (3), the regulator must start the procedure for determining an application for the grant of an environmental permit within one month of the operator providing the information referred to in paragraph (1) and must inform the operator of the start of the procedure.

(3) Sub-paragraph (2) applies only when the operator has submitted a duly made application.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25A(1) para. 3(1)-(3): England, Wales

Law In Force

[4.— Exercise of relevant function

(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the MCPD—

(a) Article 4;
(b) Article 5(1) and (2);
(c) Article 5(6);
(d) Article 6(1);
(e) Article 6(2);
(f) Article 6(7);
(g) Article 6(13);
(h) Article 7 (except Article 7(8));
(i) Article 8(2) and (3);
(j) Article 9.

(2) In exercising its relevant functions, the regulator must ensure that there is no persistent emission of dark smoke, where "dark smoke" has the meaning given in section 3(1) of the Clean Air Act 1993.

(3) In exercising its relevant functions so as to ensure compliance with Article 6(1), (2), (7) or (13) of the MCPD, the regulator must ensure that environmental permits include emission limit values set in accordance with the provisions of Part 2 of this Schedule.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25A(1) para. 4(1)-(3): England, Wales

[PART 2

Emission Limit Values

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Law In Force

[5. Interpretation of this Part

In this Part—

[…][2]

"Annex I" means Annex I of the MCPD;

"Annex II" means Annex II of the MCPD;

"biomass", "dust", "emission limit value", "micro isolated system", "nitrogen oxides", "operating hours" **[** and **]** [3] "small isolated system"**[…]**[4] have the respective meanings given in article 3 of the MCPD; any reference to emissions expressed in mg/Nm^3 is to those emissions defined in accordance with the first paragraph of Annex II.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

[2] Definition revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(27)(b)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[3] Word inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(27)(b)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[4] Words revoked by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 reg.2(27)(b)(iii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Extent

Sch. 25A(2) para. 5 definition of "Ambient Air Quality Directive"- definition of "biomass": England, Wales

Law In Force

[6.— Emission limit values

(1) Sub-paragraphs (2) to (4) apply, subject to paragraphs 7 to 11.

(2) From 20th December 2018, emission limit values applicable to a new medium combustion plant, for emissions into the air of sulphur dioxide, nitrogen oxides and dust, are the corresponding emission limit values set out in Part 2 of Annex II (but with the modification that footnote (3) in Table 2 of that Part is to be read as if for "may be" there were substituted "are").

(3) From 1st January 2025, emission limit values applicable to an existing medium combustion plant with a rated thermal input greater than 5 megawatts, for emissions into the air of sulphur dioxide, nitrogen oxides and dust, are the corresponding emission limit values set out in Tables 2 and 3 of Part 1 of Annex II.

(4) From 1st January 2030, emission limit values applicable to an existing medium combustion plant with a rated thermal input of less than or equal to 5 megawatts, for emissions into the air of sulphur dioxide, nitrogen oxides and dust, are the corresponding emission limit values set out in Tables 1 and 3 of Part 1 of Annex II.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25A(2) para. 6(1)-(4): England, Wales

Law In Force

[7.— Limited operating hours - existing medium combustion plants

(1) An existing medium combustion plant which operates for no more than 500 operating hours per year, as a rolling average over a period of five years, is not required to comply with the emission limit values set out in Tables 1, 2, and 3 of Part 1 of Annex II, provided that the operator has signed a declaration in accordance with paragraph 7 of Annex I.

(2) An existing medium combustion plant is not required to comply with the emission limit values set out in Tables 1, 2, and 3 of Part 1 of Annex II where it operates for no more than 1,000 operating hours per year, as a rolling average over a period of five years to—

(a) provide backup power production in islands connected to an electricity transmission system or distribution system, in the event of an interruption of the main power supply to an island; or

(b) produce heat in cases of exceptionally cold weather events,

provided that the operator has signed a declaration in accordance with paragraph 7 of Annex I.

(3) Subject to sub-paragraph (4), where an existing medium combustion plant firing solid fuels falls within sub-paragraph (1) or sub-paragraph (2), an emission limit value for dust of 200mg/Nm^3 applies.

(4) In the case of an existing medium combustion plant falling within sub-paragraph (2)(b), the emission limit value for dust in sub-paragraph (3) only applies during any period which has been notified by the appropriate authority to the regulator as an exceptionally cold weather event.

(5) For the purposes of sub-paragraph (2)(a), "transmission system" and "distribution system" have the meanings given in section 4(4) of the Electricity Act 1989[2].
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

[2] 1989 c.29. Section 4(4) was amended by section 28(3) of the Utilities Act 2000 (c.27) and by section 135(4) of the Energy Act 2004 (c.20).

Extent

Sch. 25A(2) para. 7(1)-(5): England, Wales

Law In Force

[8.— Limited operating hours - new medium combustion plants

(1) A new medium combustion plant which operates for no more than 500 operating hours per year, as a rolling average over a period of three years, is not required to comply with the emission limit values set out in Part 2 of Annex II, provided that the operator has signed a declaration in accordance with paragraph 7 of Annex I.

(2) Where a new medium combustion plant firing solid fuels falls within sub-paragraph (1), an emission limit value for dust of 100mg/Nm^3 applies.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25A(2) para. 8(1)-(2): England, Wales

Law In Force

[9. Small and micro isolated systems - existing medium combustion plants

Existing medium combustion plants which are part of a small isolated system or a micro isolated system are only required to comply with the emission limit values set out in Tables 1, 2 and 3 of Part 1 of Annex II from 1st January 2030.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25A(2) para. 9: England, Wales

Law In Force

[10. Plant at gas compressor stations - existing medium combustion plants

An existing medium combustion plant—

(a) with a rated thermal input greater than 5 megawatts; and

(b) which is used to drive gas compressor stations required to ensure the safety and security of a national gas transmission system,

is only required to comply with the emission limit values for nitrogen oxides set out in Table 3 of Part 1 of Annex II from 1st January 2030.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25A(2) para. 10(a)-(b): England, Wales

Law In Force

[11.— Temporary derogations - existing and new medium combustion plants

(1) This sub-paragraph applies in relation to a medium combustion plant which normally uses low sulphur fuel, where the operator is unable to comply with the relevant emission limit values for sulphur dioxide in paragraph 6 because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage.

(2) Where sub-paragraph (1) applies, the regulator may grant a derogation from the obligation to comply with those emission limit values for such period, up to a maximum of six months, as the operator satisfies the regulator is justified under the circumstances.

(3) This sub-paragraph applies in relation to a medium combustion plant using only gaseous fuel where—

(a) the plant has to resort exceptionally to the use of other fuels because of an interruption in the supply of gas; and

(b) as a result of using those other fuels, the plant would need to be equipped with secondary abatement equipment in order to comply with the relevant emission limit values for sulphur dioxide, nitrogen oxides and dust in paragraph 6.

(4) Where sub-paragraph (3) applies, the regulator may grant a derogation from the obligation to comply with the relevant emission limit values in paragraph 6—

(a) for a maximum of 10 days; or

(b) for such longer period as the operator satisfies the regulator is justified under the circumstances.

(5) Where the regulator grants a derogation under sub-paragraph (2) or (4), the regulator must inform the appropriate authority immediately.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25A(2) para. 11(1)-(5): England, Wales

[SCHEDULE 25B

Specified generators

Regulation 35(1)

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Law In Force

[1. Application

This Schedule applies in relation to every specified generator from the permitting date.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25B para. 1: England, Wales

Law In Force

[2.— Interpretation - specified generators

(1) In this Schedule—

"generator" means any combustion plant which is used for the purpose of generating electricity, but does not include any generator that is mobile unless it is connected to—

(a) an electricity transmission system or distribution system, or

(b) other apparatus, equipment or appliances at a site, and is performing a function that could be performed by a generator that is not mobile;

"specified generator" means—

(a) a generator, other than an excluded generator, with a rated thermal input—

(i) more than or equal to 1 megawatt and less than 50 megawatts, or

(ii) in the case of a generator used to meet a capacity agreement or an agreement to provide balancing services, less than 50 megawatts;

(b) where two or more generators falling with paragraph (a)(i) or (ii) are operated—

(i) on the same site,

(ii) by the same operator, and

(iii) for the same purpose,

those generators together, provided that the rated thermal input of those generators together is less than 50 megawatts; or

(c) where two or more generators, other than excluded generators—

(i) are operated as set out in paragraph (b)(i) to (iii), and

(ii) together have a rated thermal input more than or equal to 1 megawatt and less than 50 megawatts, even if one or more of the generators has a rated thermal input of less than 1 megawatt,

those generators together.

(2) For the purposes of paragraph (1)—

"excluded generator" means—

(a) generators subject to the provisions of Chapter II or Chapter III of the Industrial Emissions Directive,

(b) generators operating with a defined nuclear safety role under a nuclear site licence issued by the Office for Nuclear Regulation[2] ,

(c) back-up generators operated for the purpose of testing for no more than 50 hours per year,

(d) generators installed on an offshore platform situated on, above or below those parts of the sea adjacent to England and Wales from the low water mark to the seaward baseline of the United Kingdom territorial sea,

(e) generators installed on a gas storage or unloading platform as defined in regulation 2 of the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013;

"mobile", in relation to a generator, means designed to move or be moved whether on roads or other land.

(3) In sub-paragraph (2), "offshore platform" means any fixed or floating structure which—

(a) is used for the purposes of or in connection with the production of petroleum, and

(b) in the case of a floating structure, is maintained on a station during the course of production,

but does not include any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs.

(4) In sub-paragraph (3), "petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.
] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

2 The Office for Nuclear Regulation was established by section 77(1) of the Energy Act 2013 (c.32).

Extent

Sch. 25B para. 2(1)-(4): England, Wales

Law In Force

[3.— Interpretation - relevant dates and permitting dates

(1) The "relevant date" in relation to a generator means—

(a) 1st January 2019, in the case of a Tranche B generator;

(b) 1st October 2019, in the case of a Tranche A generator with a rated thermal input greater than 5 megawatts which—

(i) has an emission of nitrogen oxides of equal to or greater than 500mg/Nm^3, and

(ii) operates for more than 50 hours per year;

(c) 1st January 2025, in the case of a Tranche A generator with a rated thermal input greater than 5 megawatts which—

(i) has an emission of nitrogen oxides of less than 500mg/Nm^3, or

(ii) operates for less than or equal to 50 hours per year;

(d) 1st January 2030, in the case of a Tranche A generator with a rated thermal input equal to or less than 5 megawatts.

(2) The "permitting date" —

(a) in relation to a specified generator falling within paragraph 2(1)(a), is the relevant date in relation to that specified generator;

(b) in relation to a specified generator falling within paragraph 2(1)(b) or (c), is the earliest of the relevant dates in relation to the generators comprising that specified generator.

(3) For the purposes of sub-paragraph (1)—

"Tranche A generator" means a generator—

(a) with a rated thermal input equal to or greater than 1 megawatt and less than 50 megawatts—

(i) which came into operation before 1st December 2016,

(ii) which is the subject of a capacity agreement arising from the 2014 or 2015 capacity auctions (whether or not the generator came into operation before 1st December 2016), or

(iii) for which a Feed-in Tariff preliminary accreditation application was received by the Gas and Electricity Markets Authority[2] before 1st December 2016;

(b) with a rated thermal input of less than 1 megawatt—

(i) which is the subject of a capacity agreement arising from the 2014, 2015 or 2016 capacity auctions (whether or not the generator came into operation before 1st December 2016),

(ii) for which a Feed-in Tariff preliminary accreditation application was received by the Gas and Electricity Markets Authority before 1st December 2017; or

(iii) which is the subject of an agreement to provide balancing services entered into before 31st October 2017,

provided that a generator ceases to be a Tranche A generator if it is the subject of a capacity agreement, or an agreement for provision of balancing services, where that agreement is entered into after 31st October 2017 and remains in force after 31st December 2018;

"Tranche B generator" means any generator which is not a Tranche A generator or an excluded generator (and includes a specified generator which has ceased to be a Tranche A generator).

(4) For the purposes of sub-paragraph (1), in the case of a generator which is comprised in a specified generator falling within paragraph 2(1)(b) or (c), the generator is deemed to have the total rated thermal input of all the generators comprised in the specified generator.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

[2] The Gas and Electricity Markets Authority was established by section 1(1) of the Utilities Act 2000 (c.27).

Extent

Sch. 25B para. 3(1)-(4): England, Wales

Law In Force

[4. Interpretation - general

In this Schedule—

"back-up generator" means a generator operated for the sole purpose of maintaining power supply at a site during an on-site emergency;

"balancing services" means any services procured by the transmission system operator in order to balance demand and supply, and to ensure the security and quality of electricity supply, across the national transmission system for Great Britain;

"capacity agreement" has the meaning given in regulation 30 of the Electricity Capacity Regulations 2014[2] ;

"capacity auction" means an auction under Part 4 of the Electricity Capacity Regulations 2014;

"distribution system" has the meaning given in section 4(4) of the Electricity Act 1989;

"emission limit value" means the maximum permissible quantity of a substance contained in the waste gases from a generator which may be discharged into the air during a given period;
"Feed-in Tariff preliminary accreditation application" means an application for preliminary accreditation made under Part 3 of the Feed-in Tariffs Order 2012[3] ;
"nitrogen oxides" means nitric oxide and nitrogen dioxide;
"nuclear site licence" has the meaning given in section 1 of the Nuclear Installations Act 1965[4] ;
"transmission system" has the meaning given in section 4(4) of the Electricity Act 1989;
"transmission system operator" means the person operating the national transmission system for Great Britain; any reference to emissions expressed in mg/Nm^3 is to those emissions defined in accordance with the first paragraph of Annex II of the Medium Combustion Plant Directive.

] [1]

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

2 S.I. 2014/2043, as amended by S.I. 2014/3354, 2015/875, 2015/1974 and 2016/742.

3 S.I. 2012/2782, as amended by S.I. 2013/1099, 2014/1601, 2015/35, 2015/1659, 2015/2045, 2016/319 and 2017/131.

4 1965 c.57. Section 1 was substituted by paragraph 17 of Schedule 12 to the Energy Act 2013 (c.32).

Extent

Sch. 25B para. 4 definition of "back up generator"- definition of "transmission system operator": England, Wales

Law In Force

[5.— Environmental permit conditions: general

(1) Subject to paragraph 6, the regulator must exercise its relevant functions in relation to specified generators so as to ensure that they are operated, from the permitting date, in such a way that—

(a) there is compliance with an emission limit value for nitrogen oxides of $190mg/Nm^3$;

(b) where secondary abatement is required to ensure compliance with the requirement in paragraph (a), the emission limit value for nitrogen oxides is met—

(i) in the case of a Tranche A generator or a Tranche B generator which was, but has ceased to be, a Tranche A generator, within 20 minutes of the specified generator commencing operation, or

(ii) in the case of any other Tranche B generator, within 10 minutes of the specified generator commencing operation,

and in every case emissions must be monitored at least every three years;

(c) there is no persistent emission of dark smoke, where "dark smoke" has the meaning given in section 3(1) of the Clean Air Act 1993.

(2) Where compliance with air quality aspects of an environmental quality standard requires stricter conditions for the operation of a specified generator, or a generator comprised in a specified generator falling within paragraph 2(1)(b) or (c), from the permitting date the regulator must include additional

or stricter measures in the permit to comply with those standards, including (if necessary) a stricter emission limit value than that specified in paragraph (1)(a).

(3) In the case of a specified generator falling within paragraph 2(1)(b) or (c), the requirements of sub-paragraph (1) must be met by each generator comprising that specified generator only from the relevant date relating to that generator.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

Extent

Sch. 25B para. 5(1)-(3): England, Wales

Law In Force

[6.— Exceptions to environmental permit conditions

(1) Paragraph 5 does not apply in relation to a specified generator falling within paragraph 2(1)(a), or a generator comprised in a specified generator falling within paragraph 2(1)(b) or (c), that is—

(a) used at a site which it is not reasonably practicable to connect to the distribution system;

(b) a back-up generator in respect of which, in the opinion of the regulator, the operator has demonstrated a genuine need to carry out routine testing for more than 50 hours per year.

(2) Paragraph 5 does not apply—

(a) until 1st January 2025 in relation to a Tranche A generator not falling within sub-paragraph (1)—

(i) with a rated thermal input greater than 5 megawatts,

(ii) with nitrogen oxide emissions of 500mg/Nm^3 or greater, and

(iii) that operates for more than 50 hours per year;

(b) in relation to a Tranche A generator—

(i) with a rated thermal input greater than 5 megawatts,

(ii) with nitrogen oxide emissions of 500mg/Nm^3 or greater,

(iii) that operates for more than 50 hours per year, and

(iv) that is operated only for the purpose of a capacity agreement entered into before 1st December 2016,

for the period in which that capacity agreement remains in force, or until 1st January 2025, whichever is later.

(3) Where a generator falls within sub-paragraph (1) or (2), the regulator must exercise its functions from the relevant date to ensure that the operation of the generator will not give rise to an exceedance of the limit values for nitrogen dioxide specified—

(a) in the case of a generator operated in England, in Schedule 2 to the Air Quality Standards Regulations 2010[2] , and

(b) in the case of a generator operated in Wales, in Schedule 1 to the Air Quality Standards (Wales) Regulations 2010.

(4) Paragraph 5 does not apply in relation to a Tranche A generator—

(a) with a rated thermal input greater than 5 megawatts which—

(i) has an emission of nitrogen oxides of less than 500mg/Nm^3, or

(ii) operates for no more than 50 hours per year; or

(b) with a rated thermal input greater than or equal to 1 megawatt but no greater than 5 megawatts,

where it is operated only for the purpose of a capacity agreement entered into before 1st December 2016, during the period in which that capacity agreement remains in force.

(5) Paragraph 5 does not apply in relation to a Tranche A generator with a rated thermal input of less than 1 megawatt where it is operated only for the purpose of a capacity agreement entered into before 31st January 2017, during the period in which that capacity agreement remains in force.

(6) For the purposes of sub-paragraphs (2), (4) and (5), a generator comprised in a specified generator falling within paragraph 2(1)(b) or (c) is deemed to have the total rated thermal input of all the generators comprised in that specified generator.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.16 (January 30, 2018)

[2] S.I. 2010/1001, as amended by S.I. 2016/1184.

Extent

Sch. 25B para. 6(1)-(6): England, Wales

[SCHEDULE 25C

Decarbonisation Readiness Requirements for Generators in England

Regulation 35(1)

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

[PART 1

Application of Schedule and interpretation

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Not Yet In Force

[1.— Application of Schedule

(1) This Schedule applies in relation to—

(a) England, and

(b) the sea adjacent to England out so far as the seaward boundary of the territorial sea.

(2) In this Schedule "the sea adjacent to England" has the meaning given for the purposes of regulation 1(3)(a).

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Extent

Sch. 25C(1) para. 1(1)-(2): England

Not Yet In Force

[2.— Meaning of "in-scope generator"

(1) In this Schedule "in-scope generator" means a generator other than an excepted generator.

(2) A "generator" is—

(a) a specified installation,

(b) a medium combustion plant which is used for the purpose of generating electricity, or

(c) a specified generator.

(3) A generator is an "excepted generator" if it falls within one or more of the following paragraphs—

(a) it operates with a defined nuclear safety role under a nuclear site licence (within the meaning of section 1 of the Nuclear Installations Act 1965[2]) issued by the Office for Nuclear Regulation;

(b) it is a back-up generator;

(c) it is installed on an offshore platform (within the meaning of paragraph 2(2) of Part 1 of Schedule 25A) situated on, above or below the sea adjacent to England;

(d) it is installed on a gas storage or unloading platform (within the meaning of regulation 2 of the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013[3]) situated in the sea adjacent to England;

(e) it has anchor plant capability, as defined in the Grid Code, issue 6, revision 27 published on 1st October 2024 by the National Energy System Operator[4] ;

(f) it uses gas generated from landfill waste as its sole source of fuel;

(g) it is a mobile generator other than one referred to in paragraphs 2(1)(a) or 2(1)(b) in Schedule 25B;

(4) For the purposes of this paragraph—

(a) a generator is a "back-up generator" if it is operated for the sole purpose of maintaining power supply to a site during an on-site emergency (and use for test purposes for no more than 50 hours in any single calendar year is to be regarded as falling within that purpose);

(b) "specified installation" means an installation carrying on any of the following activities for the purposes of generating electricity—

(i) an activity described in Part A(1) of Section 1.1 of Chapter 1 of Part 2 of Schedule 1, or

(ii) an activity described in Part A(1) of Section 5.1 of Chapter 5 of Part 2 of Schedule 1.

] [1]

Notes

1 Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

2 1965 c. 57. Section 1 was substituted by section 156(1) of, and paragraph 17 of Schedule 12 to, the Energy Act 2013 (c. 32), and amended by S.I. 2022/500 and S.I. 2023/149.

3 S.I. 2013/971 as amended by S.I. 2016/912, 2018/798 and 2018/1325.

4 The Grid Code is available at https://www.neso.energy/industry-information/codes/grid-code-gc/grid-code-documents. Hard copies are available from the National Energy System Operator.

Extent

Sch. 25C(1) para. 2(1)-(4)(b)(ii): England

Not Yet In Force

[3.— The decarbonisation readiness report and related assessments

(1) This paragraph applies for the purposes of this Schedule.

(2) A "decarbonisation readiness report" is a report which includes—

(a) a CCR technical assessment, a CCR economic feasibility certification and a CCR storage feasibility certification, or

(b) an HCR technical assessment, an HCR economic feasibility certification and an HCR fuel feasibility certification.

(3) A "CCR technical assessment" is an assessment as to whether the CCR conditions are met in relation to a relevant generator (see paragraph 4).

(4) A "CCR economic feasibility certification" is a statement that the operator has reasonable grounds to believe that it will be economically feasible for a relevant generator to—

(a) be connected to a qualifying complete CCS system during the lifetime of the relevant generator, and

(b) operate whilst connected to that system.

(5) A "CCR storage feasibility certification" is a statement that the operator has reasonable grounds to believe that it will be technically feasible, during the lifetime of a relevant generator, for the relevant amount of EG CO_2 captured to be transported (including by way of non-pipeline transport methods) to a named storage site for disposal by way of permanent storage.

(6) An "HCR technical assessment" is an assessment as to whether the HCR conditions are met in relation to a relevant generator (see paragraph 5).

(7) An "HCR fuel feasibility certification" is a statement that the operator has reasonable grounds to believe that it will be possible, during the lifetime of a relevant generator, to ensure access to a sufficient supply of hydrogen for the relevant generator to enable it to use hydrogen as the primary source of fuel.

(8) An "HCR economic feasibility certification" is a statement that the operator has reasonable grounds to be believe that it will be economically feasible for a relevant generator to—

(a) be converted to the use of hydrogen as the primary source of fuel during the lifetime of the relevant generator, and

(b) use primarily that fuel.

(9) For the purposes of this paragraph "named storage site" means a geological disposal site approved under Chapter 3 of Part 1 of the Energy Act 2008 and other legislation which transposed Directive 2009/31/EC on the geological storage of carbon dioxide in relation to England and Wales, which is identified in a decarbonisation report as the site to which EG CO_2 is to be transported.

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Extent

Sch. 25C(1) para. 3(1)-(9): England

Not Yet In Force

[4. The CCR conditions

For the purposes of this Schedule, a relevant generator meets the CCR conditions if—

(a) it is technically feasible to retrofit the generator with the plant and facilities necessary to capture the relevant amount of EG CO_2, and

(b) sufficient space is set aside for the plant and facilities necessary to capture and compress the relevant amount of EG CO_2.

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Extent

Sch. 25C(1) para. 4(a)-(b): England

Not Yet In Force

[5. The HCR conditions

For the purposes of this Schedule, a relevant generator meets the HCR conditions if—

(a) it is technically feasible to retrofit the generator with the plant and facilities necessary for the use by that generator of hydrogen as its primary fuel; and

(b) there is sufficient space for the technology or techniques proposed by the operator for the provision of hydrogen to the relevant generator.

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Extent

Sch. 25C(1) para. 5(a)-(b): England

Not Yet In Force

[6.— Interpretation: general

(1) In this Schedule—

"EG CO2", in relation to a generator, means the carbon dioxide produced by, or in connection with, the generation of electricity by the generator;

"qualifying complete CCS system" means a system of plant and facilities for—

(a) capturing some or all of the carbon dioxide (or any substance consisting primarily of carbon dioxide) that is produced by, or in connection with, the generation of electricity by a generating station;

(b) transporting the carbon dioxide (or substance captured); and

(c) disposing of it by way of permanent storage;

"the relevant amount of EG CO2", in relation to a generator, means—

(a) 90% of EG CO_2 produced by the generator each year, or

(b) where the use of best available techniques (within the meaning given in Article 3(10) of the Industrial Emissions Directive) would result in a greater rate of capture of EG CO_2 produced by the generator each year, that amount of EG CO_2;

"relevant generator" means—

(a) an in-scope generator, or

(b) an in-scope generator as refurbished (whether or not substantially refurbished);

"standard relevant generator" means a relevant generator that is a standard facility.

(2) For the purposes of this Schedule, a generator is "substantially refurbished" if the cost of refurbishing a combustion plant exceeds 50% of the investment cost for a comparable new combustion plant.
] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Extent

Sch. 25C(1) para. 6(1)-(2): England

[PART 2

Applications for the grant or variation of an environmental permit

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Not Yet In Force

[7.— Application of Part 2 of this Schedule

(1) This Part of this Schedule does not apply to any existing application.

(2) In this paragraph "existing application" means an application made before the day on which the Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2024 come into force—

(a) for the grant of an environmental permit under regulation 13, or

(b) for the variation of an environmental permit under regulation 20(1).

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Extent

Sch. 25C(2) para. 7(1)-(2)(b): England

Not Yet In Force

[8.— Applications for the grant or variation of an environmental permit

(1) An application for the grant of an environmental permit under regulation 13(1) for an in-scope generator must include a decarbonisation readiness report.

(2) A variation application must include a decarbonisation readiness report where the application relates to—

(a) the substantial refurbishment of an in-scope generator, or

(b) the addition of an in-scope generator.

(3) A variation application (other than one mentioned in sub-paragraph (2)) may include a decarbonisation readiness report.

(4) In this paragraph "variation application" means an application for a variation of an environmental permit under regulation 20(1).

(5) Paragraph 8(1) does not apply in respect of—

(a) an existing medium combustion plant within the meaning of paragraph 2(1) of Schedule 25A with a rated thermal input of less than or equal to 5 megawatts, or

(b) a Tranche A generator within the meaning of paragraph 3(3) of Schedule 25B with a rated thermal input equal to or less than 5 megawatts.

] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Extent

Sch. 25C(2) para. 8(1)-(5)(b): England

Not Yet In Force

[9.— Determination of applications

(1) Where, as required or permitted by paragraph 8, a decarbonisation readiness report is submitted with an application for the grant or variation of an environmental permit, the regulator may only grant that application if it determines that the CCR conditions or, as the case may be, the HCR conditions are met.

(2) In the case of an application in respect of a standard relevant generator, the regulator may, without further enquiry, accept a statement made in the application or any accompanying decarbonisation readiness report that the CCR conditions or, as the case may be, the HCR conditions are met, as conclusive proof of the truth of the satisfaction of those conditions.

(3) The regulator's determination under sub-paragraph (1) must have regard to the CCR technical assessment or the HCR technical assessment included in the relevant decarbonisation readiness report.

(4) An environmental permit granted pursuant to an application of the kind referred to in sub-paragraph (1)—

(a) must include a condition requiring the holder of the permit to carry out a review of their decarbonisation readiness report at intervals not exceeding 2 years;
(b) may include a condition requiring the permit holder to report to the regulator the findings of the review;
(c) may include a condition that the CCR conditions or, as the case may be, the HCR conditions must be met.

(5) By way of an exception from paragraph (1), in the case of a relevant generator, the regulator may grant an application to vary an environmental permit, where that permit was granted on or before the day on which the Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2024 come into force and the regulator is satisfied that, having regard to representations made, meeting the CCR conditions or, as the case may be, the HCR conditions would not be reasonably practicable due to the location or technical characteristics of the relevant generator.
] [1]

Notes

[1] Added by Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025/154 Sch.1 para.1 (February 28, 2026: insertion has effect subject to transitional provisions specified in SI 2025/154 reg.8)

Extent

Sch. 25C(2) para. 9(1)-(5): England

SCHEDULE 26

Enforcement undertakings

Regulation 39(6)

Law In Force

1.— Enforcement undertakings

(1) The Agency may accept an enforcement undertaking from a person in a case where the Agency has reasonable grounds to suspect that the person has committed any of the following offences in relation to a regulated facility or an exempt facility that has been or is being operated in England—
(a) regulation 38(1) (contravening regulation 12(1) or knowingly causing or knowingly permitting the contravention of regulation 12(1)(a)),
(b) regulation 38(2) (failing to comply with, or contravening, an environmental permit condition),
(c) regulation 38(4)(a) (failing to comply with a notice under regulation 61(1) requiring the provision of information),
(d) regulation 38(5)(a) (failing to comply with the record-keeping requirements in paragraph 17(3) or (4) of Schedule 2), or
(e) regulation 38(6) (acts of third parties) so far as it relates to an offence listed in paragraphs (a) to (d).

(2) **[…]**[1]

(3) For the purposes of this Schedule, an "enforcement undertaking" is a written undertaking to take such action as may be specified in the undertaking within such period as may be so specified.

Notes

[1] Revoked by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 Pt 2 reg.17 (January 30, 2018)

Commencement

Sch. 26 para. 1(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 1(1)-(3): England, Wales

Law In Force

2.— Contents of an enforcement undertaking

(1) An enforcement undertaking must specify—

(a) action to secure that the offence does not continue or recur,

(b) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed,

(c) action (including the payment of a sum of money) to benefit any person affected by the offence, or

(d) where restoration of the harm arising from the offence is not possible, action that will secure equivalent benefit or improvement to the environment.

(2) It must specify the period within which the action must be completed.

(3) It must include—

(a) a statement that the undertaking is given in accordance with this Schedule;

(b) the terms of the undertaking;

(c) how and when a person is considered to have discharged the undertaking.

(4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if both parties agree in writing.

Commencement

Sch. 26 para. 2(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 2(1)-(4): England, Wales

Law In Force

3. Acceptance of an enforcement undertaking

If the Agency has accepted an enforcement undertaking then, unless the person from whom the undertaking is accepted has failed to comply with the undertaking or any part of it, that person may not at any time be convicted of the offence in respect of the act or omission to which the undertaking relates.

Commencement

Sch. 26 para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 3: England, Wales

Law In Force

4.— General provisions on enforcement undertakings

(1) The Agency must establish and publish the procedure for entering into an enforcement undertaking.

(2) The Agency must consult such persons as it considers appropriate before doing so.

(3) When it accepts an undertaking, the Agency may publish it in whatever manner it sees fit.

Commencement

Sch. 26 para. 4(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 4(1)-(3): England, Wales

Law In Force

5.— Discharge of an enforcement undertaking

(1) If the Agency is satisfied that an enforcement undertaking has been complied with, it must issue a certificate to that effect.

(2) The Agency may require the person who has given the undertaking to provide sufficient information to determine that the undertaking has been complied with.

(3) The person who gave the undertaking may at any time apply for such a certificate.

(4) The Agency must make a decision as to whether to issue such a certificate, and give written notice of the decision to the applicant, within 14 days of such an application.

(5) The person to whom the notice is given may appeal against a decision not to issue a certificate on the grounds that the decision—

(a) was based on an error of fact;

(b) was wrong in law;
(c) was unfair or unreasonable;
(d) was wrong for any other reason.

Commencement

Sch. 26 para. 5(1)-(5)(d): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 5(1)-(5)(d): England, Wales

Law In Force

6.— Inaccurate, incomplete or misleading information

(1) A person who has given inaccurate, misleading or incomplete information in relation to an enforcement undertaking is regarded as not having complied with it.

(2) The Agency may by notice in writing revoke a certificate issued under paragraph 5 if it was issued on the basis of inaccurate, incomplete or misleading information.

Commencement

Sch. 26 para. 6(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 6(1)-(2): England, Wales

Law In Force

7.— Non-compliance with an enforcement undertaking

(1) If an enforcement undertaking is not complied with, the Agency may bring criminal proceedings for the offence in respect of the act or omission to which the undertaking relates.

(2) If a person has complied partly but not fully with an undertaking, that part-compliance must be taken into account in the imposition of any criminal sanction on the person.

(3) Criminal proceedings for offences triable summarily to which an enforcement undertaking relates may be instituted at any time up to 6 months from the date when the Agency notifies the person that such person has failed to comply with that undertaking.

Commencement

Sch. 26 para. 7(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 7(1)-(3): England, Wales

Law In Force

8.— Appeals

(1) An appeal against a decision of the Agency under paragraph 5 is to the First-tier Tribunal.

(2) The Tribunal may—

(a) affirm the decision;

(b) quash the decision and remit it to the Agency.

Commencement

Sch. 26 para. 8(1)-(2)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 8(1)-(2)(b): England, Wales

Law In Force

9.— Guidance as to use of enforcement undertakings

(1) The Agency must publish guidance about its use of enforcement undertakings.

(2) The Agency must revise the guidance where appropriate.

(3) The Agency must consult such persons as it considers appropriate before publishing any guidance or revised guidance.

(4) The Agency must have regard to the guidance or revised guidance in exercising its functions.

Commencement

Sch. 26 para. 9(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 9(1)-(4): England, Wales

Law In Force

10.— Publication of enforcement undertakings

(1) The Agency must from time to time publish the cases in which an enforcement undertaking has been entered into.

(2) This paragraph does not apply in cases where the Agency considers that publication would be inappropriate.

Commencement

Sch. 26 para. 10(1)-(2): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 26 para. 10(1)-(2): England, Wales

[SCHEDULE 26A

Variable monetary penalties (England)

Regulation 39(7)

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

[PART 1

Variable monetary penalties: procedure

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Law In Force

[1.— Power to impose a variable monetary penalty

(1) The Agency may by notice impose on a person a requirement to pay to the Agency a monetary penalty of such amount as the Agency may determine ("a variable monetary penalty") in relation to a relevant offence which is committed in England on or after 1st December 2023.

(2) The Agency may only impose a variable monetary penalty where it is satisfied beyond reasonable doubt that the person has committed the offence.

(3) In this Schedule, "a relevant offence" means an offence specified in regulation 38.

(4) A variable monetary penalty must not be imposed on a person in relation to a relevant offence where—

(a) a variable monetary penalty has already been imposed on that person in relation to the same act or omission which gave rise to the offence; or

(b) the Agency has accepted an enforcement undertaking under paragraph 1 of Schedule 26 in relation to the same act or omission, unless the person from whom the undertaking is accepted has failed to comply with the undertaking, or any part of it.

(5) Before serving a notice relating to a variable monetary penalty, the Agency may require a person to provide such information as is reasonable to establish the amount of any financial benefit arising as a result of the offence.

(6) The Agency may impose a variable monetary penalty of—

(a) any amount, in relation to an offence under regulation 38(1) to (4); or

(b) an amount not exceeding the maximum amount of the fine which may be imposed on summary conviction, in relation to an offence committed by an establishment or undertaking under regulation 38(5).

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(1) para. 1(1)-(6)(b): England, Wales

Law In Force

[2.— Notice of intent to impose a variable monetary penalty

(1) Where the Agency proposes to impose a variable monetary penalty on a person, it must first serve on that person a notice of what is proposed (a "notice of intent").

(2) The notice of intent must include information as to—

(a) the grounds for imposing the variable monetary penalty;

(b) the amount of the variable monetary penalty proposed;

(c) the right to make representations and objections;

(d) the circumstances in which the Agency may not impose the variable monetary penalty; and

(e) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(1) para. 2(1)-(2)(e): England, Wales

Law In Force

[3.— Making representations and objections

(1) A person on whom a notice of intent is served may, within 28 days beginning with the day on which the notice was received, make written representations and objections to the Agency in relation to the imposition of the variable monetary penalty.

(2) If the notice of intent is served other than by post, the date that the person receives the notice is to be taken as—

(a) the date that the email containing the notice was sent to the person, if served by email; or

(b) the date that the notice is delivered to the person, if served by another method.

]1

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(1) para. 3(1)-(2)(b): England, Wales

Law In Force

[4.— Offering a third party undertaking

(1) A person on whom a notice of intent is served may offer the Agency an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any third party affected by the offence (a "third party undertaking").

(2) The Agency may accept or reject such a third party undertaking.

(3) If the Agency accepts the third party undertaking, it must also take that undertaking into account in making a decision in relation to the imposition of a variable monetary penalty.

]1

Notes

1 Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(1) para. 4(1)-(3): England, Wales

Law In Force

[5.— Procedure for imposition of a variable monetary penalty

(1) Subject to sub-paragraph (2), after the end of the period for making representations and objections, the Agency must decide whether to impose the variable monetary penalty, with or without modifications.

(2) The Agency may not impose a variable monetary penalty on a person where it is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

(3) Where the Agency decides to impose a variable monetary penalty, it must send to the person a notice imposing the variable monetary penalty (a "final notice") including the information specified in paragraph 6.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(1) para. 5(1)-(3): England, Wales

Law In Force

[6. Final notice

A final notice must specify—

(a) the grounds for imposing the variable monetary penalty;
(b) the amount of the penalty;
(c) the method by which it can be paid;
(d) the period within which payment must be made;
(e) the grounds on which the person on whom the penalty is imposed may appeal; and
(f) the consequences of failing to comply with the requirements of the final notice.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(1) para. 6(a)-(f): England, Wales

Law In Force

[7.— Variable monetary penalties: criminal proceedings and conviction

(1) This paragraph applies where the Agency has, in relation to a relevant offence—

(a) imposed a variable monetary penalty on a person; or
(b) accepted a third party undertaking from a person.

(2) The person referred to in sub-paragraph (1)(a) or (b) may not at any time be convicted of an offence in relation to the same act or omission for which the variable monetary penalty was imposed or the third party undertaking accepted, except in the case referred to in sub-paragraph (3).

(3) A case is within this sub-paragraph if—
(a) no variable monetary penalty is imposed on the person;
(b) a third party undertaking is accepted from the person; and
(c) the person fails to comply with the third party undertaking.

(4) Where sub-paragraph (3) applies, summary proceedings in relation to the offence which gave rise to the third party undertaking may be instituted at any time within the period of six months beginning with the date on which the Agency notified the person of their failure to comply with the third party undertaking.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(1) para. 7(1)-(4): England, Wales

Law In Force

[8.— Variable monetary penalties: enforcement cost recovery notice

(1) The Agency may require a person served with a final notice in accordance with paragraph 5(3) to pay the costs incurred by the Agency in relation to the variable monetary penalty.

(2) The costs which may be recovered are those incurred by the Agency up to the time that a final notice was served on the person and may include in particular—
(a) investigation costs;
(b) administration costs; and
(c) costs of obtaining expert advice (including legal advice).

(3) The Agency may recover the costs referred to in paragraph (2) by serving a notice requiring payment ("an enforcement cost recovery notice") on the person.

(4) An enforcement cost recovery notice must—
(a) specify the amount to be paid and the method by which it may be paid;
(b) specify the period within which payment must be made, which must not be less than 28 days;
(c) include statements—
(i) that the Agency may on request be required to provide a detailed breakdown of the costs specified; and
(ii) that the person is not liable to pay any costs that they can show to have been unnecessarily incurred;

(d) specify the grounds on which the person served with the notice may appeal; and
(e) specify the consequences of failure to pay the amount required within the specified period.

(5) The person on whom the notice is served may require the Agency to provide a detailed breakdown of the amount of the costs.

(6) The person is not liable to pay any costs which they can show to have been unnecessarily incurred.

(7) The Agency may at any time, in writing, withdraw an enforcement cost recovery notice or reduce the amount specified in the notice.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(1) para. 8(1)-(7): England, Wales

[PART 2

Non-compliance penalties and recovery of penalties and costs

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Law In Force

[9.— Non-compliance penalty

(1) If a person fails to comply with a third party undertaking accepted by the Agency in accordance with paragraph 4(2), the Agency may serve a notice on that person imposing a monetary penalty ("a non-compliance penalty") in relation to the offence to which the third party undertaking relates.

(2) The amount of the non-compliance penalty must be determined by the Agency in accordance with sub-paragraph (3).

(3) The amount of the non-compliance penalty must be a percentage of the costs of fulfilling the requirements or the remaining requirements of the third party undertaking, up to a maximum of 100%.

(4) The notice referred to in paragraph (1) must include information as to—
(a) the grounds for imposing the non-compliance penalty;

(b) the amount of the penalty;
(c) the method by which it can be paid;
(d) the period within which payment must be made, which must not be less than 28 days; and
(e) the grounds on which the person served with the notice may appeal.

(5) The Agency may at any time withdraw a notice imposing a non-compliance penalty by sending written confirmation of the withdrawal to the person on whom the notice was served.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(2) para. 9(1)-(5): England, Wales

Law In Force

[10.— Power to recover a variable monetary penalty or non-compliance penalty

(1) After the end of the period for payment of—
(a) a variable monetary penalty;
(b) a non-compliance penalty; or
(c) costs specified in an enforcement cost recovery notice,
the Agency may recover from the person on whom the penalty was imposed, or the notice served, the amount of the penalty or costs.

(2) The amount of the penalty or costs may be recovered as a civil debt, or, on the order of the court, as if payable under a court order.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(2) para. 10(1)-(2): England, Wales

[PART 3

Appeals

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Law In Force

[11.— Variable monetary penalties: appeals

(1) A person may appeal to the First-tier Tribunal against a decision by the Agency to impose a variable monetary penalty by service of a final notice.

(2) An appeal under this paragraph may be made on the grounds that—

(a) the decision was based on an error of fact;
(b) the decision was wrong in law;
(c) the amount of the penalty was unreasonable;
(d) the decision was unreasonable for any other reason.

(3) Where a person appeals under this paragraph, the effect of the final notice to which the appeal relates is suspended until the appeal is finally determined.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(3) para. 11(1)-(3): England, Wales

Law In Force

[12.— Non-compliance penalty and enforcement cost recovery notice: appeals

(1) A person may appeal to the First-tier Tribunal against a decision by the Agency to impose a non-compliance penalty or to serve an enforcement cost recovery notice.

(2) An appeal under sub-paragraph (1) may be made on the grounds that—

(a) the decision to impose the penalty or serve the notice was based on an error of fact;
(b) the decision was wrong in law;
(c) the amount of the penalty or costs is unreasonable;
(d) the decision was unreasonable for any other reason.

(3) Where a person appeals under sub-paragraph (1), the effect of the decision or notice to which the appeal relates is suspended until the appeal is finally determined.
] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(3) para. 12(1)-(3): England, Wales

Law In Force

[13. Powers of the First-tier Tribunal on appeal

On an appeal against a decision by the Agency to impose a variable monetary penalty or non-compliance penalty or to serve an enforcement cost recovery notice, the First-tier Tribunal may—

(a) withdraw the penalty or notice;

(b) confirm the Agency's decision to impose the penalty or serve the notice;

(c) vary the amount of the penalty or the amount specified in the enforcement cost recovery notice;

(d) take any of the steps that the Agency could take in relation to the act or omission which gave rise to the penalty or notice; or

(e) remit the decision to impose the penalty or serve the notice, or any matter relating the decision, to the Agency for reconsideration.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(3) para. 13(a)-(e): England, Wales

[PART 4

Guidance

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Law In Force

[14.— Guidance as to the use of civil sanctions and cost recovery

(1) The Agency must—

(a) publish guidance about its use of variable monetary penalties, non-compliance penalties and enforcement cost recovery notices; and

(b) revise the guidance where appropriate.

(2) Before publishing guidance or revised guidance, the Agency must consult—

(a) such bodies or persons as appear to the Agency to be representative of the interests of local government, industry, agriculture and small businesses; and

(b) such organisations as appear to the Agency to be substantially affected by the proposals.

(3) In the case of a variable monetary penalty, the guidance must include information as to—

(a) the circumstances in which a variable monetary penalty is likely to be imposed;

(b) the circumstances in which it may not be imposed; and

(c) the rights to make representations and objections and to appeal.

(4) In the case of a non-compliance penalty or an enforcement cost recovery notice, the guidance must include information as to—

(a) how the Agency will exercise the power to impose a non-compliance penalty and the power to recover costs;

(b) how it will determine the amount to be recovered; and

(c) the rights to make representations and objections and to appeal.

(5) The Agency must have regard in exercising its functions to the guidance or revised guidance published in accordance with this paragraph.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(4) para. 14(1)-(5): England, Wales

[PART 5

Publication of reports

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Law In Force

[16.— Publication of enforcement action

(1) The Agency must from time to time publish reports specifying —

(a) the cases in which a variable monetary penalty has been imposed on a person; and

(b) the cases in which a third party undertaking has been accepted from a person.

(2) In sub-paragraph (1)(a), the reference to cases in which a variable monetary penalty has been imposed does not include cases where a variable monetary penalty has been imposed but was overturned on appeal.

(3) This paragraph does not apply in cases where the Agency considers that publication would be inappropriate.

] [1]

Notes

[1] Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 Sch.1 para.1 (December 1, 2023)

Extent

Sch. 26A(5) para. 16(1)-(3): England, Wales

SCHEDULE 27

Public registers

Regulation 46(1)

Law In Force

1.— Matters to be included in a public register

(1) A public register must contain a copy of—

(a) every application for—

(i) the grant of an environmental permit,

(ii) the variation of an environmental permit,

(iii) the transfer of an environmental permit in whole or in part, or

(iv) the surrender of an environmental permit in whole or in part;

(b) every notice requesting further information under paragraph 4(1) of Part 1 of Schedule 5;

(c) all representations made in respect of an application for the grant or variation of an environmental permit;

(d) every environmental permit, variation, transfer in whole or in part, or surrender in whole or in part granted or made by the regulator;

(e) every determination or decision notified under paragraph 17(2)(a) of Part 1 of Schedule 5;

(f) every prohibition notice, enforcement notice, revocation notice, suspension notice, landfill closure notice, mining waste facility closure notice or notice withdrawing such a notice served by the regulator;

(g) in relation to an appeal to an appropriate authority, every—

(i) notice of appeal,

(ii) document relating to the appeal,

(iii) representation made in respect of the appeal, and

(iv) determination of the authority, including any report accompanying that determination;

(h) all information obtained by the regulator—

(i) as a result of its own monitoring,

(ii) as a result of monitoring required under an environmental permit condition, or

(iii) under regulation 61 in relation to monitoring;

(i) all other information given to the regulator in compliance with—

(i) an environmental permit condition,

(ii) an enforcement notice,

(iii) a suspension notice,

(iv) a landfill closure notice,

(v) a mining waste facility closure notice, or

(vi) regulation 61;

(j) every report published by the regulator relating to an assessment of the environmental consequences of the operation of an installation;

(k) every direction given to the regulator, the exemption registration authority or the exemption authority by an appropriate authority under these Regulations, other than a direction given under regulation 47 or paragraph 13 of Schedule 2.

(2) A public register must also contain—

(a) details of any conviction for, or enforcement undertaking accepted in relation to, an offence under regulation 38 in respect of an environmental permit granted by the regulator or a failure to apply to the regulator for the grant of an environmental permit,

(b) in the case of a body corporate, details of any formal caution for an offence under regulation 38 in respect of an environmental permit granted by the regulator or a failure to apply to the regulator for the grant of an environmental permit,

(c) an inventory of closed mining waste facilities as required under Article 20 of the Mining Waste Directive,

(d) a list identifying all waste incineration plants and waste co-incineration plants—

(i) which have a capacity of less than 2 tonnes per hour, and

(ii) whose operation is authorised by an environmental permit containing conditions which give effect to Chapter IV of the Industrial Emissions Directive,

(e) the information provided to the regulator by the operator of a materials facility under paragraph 7 of Part 2 of Schedule 9, and

(f) details of—

(i) all fees and charges paid to a regulator within the meaning of regulation 66 pursuant to a scheme under that regulation, and

(ii) the total expenditure of that regulator in exercising its functions under these Regulations.

(3) The regulator may omit any representation referred to in sub-paragraph (1) from its public register at the request of the person making the representation, but the regulator must then include in the public register a statement that a representation was made and was the subject of such a request.

(4) The regulator may omit from its public register any representation which substantially duplicates a representation already included in the public register, but the regulator must then include on the register a statement of the number of representations that have been omitted on this basis.

(5) If the regulator omits from its public register information referred to in sub-paragraph (1)(h) on the grounds that it is commercially or industrially confidential, the regulator must include in the public register a statement indicating whether or not there has been compliance with any environmental permit condition related to that information and requiring compliance with emission limit values.

Commencement

Sch. 27 para. 1(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 27 para. 1(1)-(5): England, Wales

Law In Force

2. Information no longer relevant for public participation

A regulator is not required to keep in its public register information which is no longer relevant for the purposes of public participation required under these Regulations.

Commencement

Sch. 27 para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 27 para. 2: England, Wales

Law In Force

3. Formal cautions

A regulator must remove details of any formal caution from its public register 5 years after the caution was given.

Commencement

Sch. 27 para. 3: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 27 para. 3: England, Wales

Law In Force

4. Spent convictions of individuals

A regulator must remove details of any conviction from its public register once the rehabilitation period for a sentence has ended in accordance with section 5 of the Rehabilitation of Offenders Act 1974[1] .

Notes

[1] Section 5 was amended by paragraph 24 of Schedule 7 to the Criminal Justice (Scotland) Act 1980 (c. 62), paragraph 36 of Schedule 14, and Schedule 16, to the Criminal Justice Act 1982 (c. 48), paragraph 9 of Schedule 8 to the Criminal Justice Act 1988 (c. 33), paragraph 48 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraph 18 of Schedule 32(1) to the Criminal Justice Act 2003 (c. 44), paragraph 65 of Schedule 16 and Schedule 17 to the Armed Forces Act 2006 (c. 52), and section 139 of, and paragraph 2 of Schedule 21(1) to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

Commencement

Sch. 27 para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 27 para. 4: England, Wales

SCHEDULE 28

Revocations

Regulation 73

Law In Force

(1)	(2)	(3)
Regulations revoked	***References***	***Extent of revocation***
The 2007 Regulations	S.I. 2007/3538	The whole Regulations, except— regulations 1, 67, 72(3), (4), (8), (9) and (11) and 73 and Schedule 21, and for the purpose of any of those provisions, any definition in Part 1.
The Environmental Permitting (England and Wales) (Amendment) Regulations 2009[1]	S.I. 2009/1799	The whole Regulations, except regulations 1 and 28(1) and Schedule 2.
The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2009[1]	S.I. 2009/3381	The whole Regulations, except regulations 1 and 13(1) and (3).
The 2010 Regulations	S.I. 2010/675	The whole Regulations, except—

(1)	(2)	(3)
Regulations revoked	***References***	***Extent of revocation***
		regulations 1, 67, 107 and Schedule 26, and for the purpose of any of those provisions, any definition in Part 1.
The Environmental Permitting (England and Wales) (Amendment) Regulations 2010	S.I. 2010/676	The whole Regulations.
The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2010	S.I. 2010/2172	The whole Regulations.
The Environmental Permitting (England and Wales) (Amendment) Regulations 2011[2]	S.I. 2011/2043	The whole Regulations, except regulations 1 to 5, 9 and 16 and Schedule 2.
The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2011	S.I. 2011/2933	The whole Regulations.
The Environmental Permitting (England and Wales) (Amendment) Regulations 2012	S.I. 2012/630	The whole Regulations, except regulations 1 to 3, 19(1) and (2), 20 and 21.
The Environmental Permitting (England and Wales) (Amendment) Regulations 2013	S.I. 2013/390	The whole Regulations, except regulations 1 to 9 and 57.
The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2013[3]	S.I. 2013/766	Regulation 2(3).
The Environmental Permitting (England and Wales) (Amendment) Regulations 2014	S.I. 2014/255	The whole Regulations.
The Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2014	S.I. 2014/2852	The whole Regulations, except regulations 1 to 4.
The Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2015	S.I. 2015/324	The whole Regulations, except for regulations 1 and 2(1) and (2).
The Environmental Permitting (England and Wales) (Amendment) Regulations 2015	S.I. 2015/918	The whole Regulations, except for regulations 1 and 2.
The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2015	S.I. 2015/934	The whole Regulations.
The Environmental Permitting (England and Wales) (Amendment) (No. 3) Regulations 2015	S.I. 2015/1756	The whole Regulations.
The Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2016	S.I. 2016/149	The whole Regulations.
The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016	S.I. 2016/475	The whole Regulations, except for regulations 1 to 7, 29 and 31 to 34 and Schedule 3.

Notes

[1] Amended by S.I. 2010/675.

[2] Amended by S.I. 2016/58 (W. 28).

[3] Amended by S.I. 2015/483.

Commencement

Sch. 28 para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 28 para. 1: England, Wales

SCHEDULE 29

Consequential amendments

Regulation 75

PART 1

Public General Acts

Law In Force

1. Continental Shelf Act 1964

In section 7 of the Continental Shelf Act 1964[1] , for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 7 was amended by paragraph 2(3) of Schedule 4 to the Petroleum Act 1998 (c. 17) and by S.I. 2010/675 and 2011/2043.

Commencement

Sch. 29(1) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 1: England, Wales

Law In Force

2.— Nuclear Installations Act 1965

(1) The Nuclear Installations Act 1965 is amended as follows.

(2) In section 3(14)(a)[1] , for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(3) In section 4[2] —

(a) in subsection (3)(d), for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)";

(b) in subsection (7)(a), for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

1 Section 3 was substituted by paragraph 18 of Schedule 12 to the Energy Act 2013 (c. 32).

2 Section 4 was substituted by paragraph 19 of Schedule 12 to the Energy Act 2013.

Commencement

Sch. 29(1) para. 2(1)-(3)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 2(1)-(3)(b): England, Wales

Law In Force

3. Control of Pollution Act 1974

In section 30(5) of the Control of Pollution Act 1974[1] —

(a) in the words before paragraph (a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)";

(b) in paragraph (b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

1 Section 30(5) was amended by S.I. 2010/675 and 2011/2043. Section 30 is prospectively repealed by Part 2 of Schedule 16 to the 1990 Act on a date to be appointed.

Commencement

Sch. 29(1) para. 3(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 3(a)-(b): England, Wales

Law In Force

4. Salmon and Freshwater Fisheries Act 1975

In section 5(5)(c) of the Salmon and Freshwater Fisheries Act 1975[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 5(5)(c) was substituted by S.I. 2010/675.

Commencement

Sch. 29(1) para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 4: England, Wales

Law In Force

5. Highways Act 1980

In section 339(1A) of the 1980 Act[1], for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 339(1A) was inserted by S.I. 2016/475.

Commencement

Sch. 29(1) para. 5: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 5: England, Wales

Law In Force

6.— Environmental Protection Act 1990

(1) The 1990 Act is amended as follows.

(2) In section 28(2)[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(3) In section 29(12)[2], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(4) For section 33(1B)[3], substitute—

"(1B) Subsection (1) does not apply in relation to any part of a waste operation that—

(a) is the subject of a marine licence under the Marine and Coastal Access Act 2009; or

(b) does not require such a licence by virtue of any provision made by or under section 74, 75[4] or 77 of that Act and does not involve the dismantling of a ship that is waste.".

(5) In section 78YB(5)[5], in the definition of "enforcement action", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(6) In section 78YC(b)[6], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(7) In section 142(7)[7], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

1 Section 28(2) was amended by S.I. 2010/675. Section 28 is prospectively repealed by Schedule 3 to the Pollution Prevention and Control Act 1999 (c. 24) on a date to be appointed.

2 Section 29(12) was inserted by S.I. 2007/3538 and substituted by S.I. 2010/675.

3 Section 33(1B) was inserted by S.I. 2007/3538 and substituted by S.I. 2010/675.

4 Section 75 was amended by S.I. 2011/405 and 2016/738.

5 Section 78YB was inserted by section 57 of the 1995 Act; subsection (5) was inserted by S.I. 2007/3538 and amended by S.I. 2010/675.

6 Section 78YC was inserted by section 57 of the 1995 Act and amended by S.I. 2010/675.

7 Section 142(7) was amended by S.I. 2006/2407, 2010/675, 2012/1916 and 2014/1638.

Commencement

Sch. 29(1) para. 6(1)-(7): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 6(1)-(7): England, Wales

Law In Force

7. Atomic Weapons Establishment Act 1991

In the Atomic Weapons Establishment Act 1991—

(a) in the heading before paragraph 10C of the Schedule[1], for "Environmental Permitting (England and Wales) Regulations 2010" substitute "Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph 10C(1) of the Schedule, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

1 Paragraph 10C was inserted by S.I. 2010/675.

Commencement

Sch. 29(1) para. 7(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 7(a)-(b): England, Wales

Law In Force

8.— Water Industry Act 1991

(1) The Water Industry Act 1991 is amended as follows.

(2) In section 117(5)(a)[1], for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(3) In section 138(1B)(a)[2], in the words after sub-paragraph (ii), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

1 Section 117(5)(a) was amended by paragraph 97 of Schedule 7 to the Water Act 2014 (c. 21).

2 Section 138(1B) was inserted by S.I. 2000/1973 and paragraph (a) was amended by S.I. 2010/675.

Commencement

Sch. 29(1) para. 8(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 8(1)-(3): England, Wales

Law In Force

9. Water Resources Act 1991

In section 221(1) of the 1991 Act[1], in the definition of "Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

1 The definition was inserted by S.I. 2010/675.

Commencement

Sch. 29(1) para. 9: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 9: England, Wales

Law In Force

10. Water Consolidation (Consequential Provisions) Act 1991

In paragraph 30(1)(a) of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Paragraph 30(1) was amended by S.I. 2010/675.

Commencement

Sch. 29(1) para. 10: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 10: England, Wales

Law In Force

11. Clean Air Act 1993

In section 41A of the Clean Air Act 1993[1] —

(a) in subsection (2)(c), for "paragraph 7 of Schedule 2" substitute "paragraph 11 of Schedule 2";

(b) in subsection (4), in the definition of "the Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 41A was inserted by S.I. 2000/1973; subsection 2(c) was inserted by S.I. 2007/3538 and amended by S.I. 2010/675; subsection (4) was inserted by S.I. 2007/3538 and amended by S.I. 2009/1799 and 2010/675.

Commencement

Sch. 29(1) para. 11(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 11(a)-(b): England, Wales

Law In Force

12. Goods Vehicles (Licensing of Operators) Act 1995

In paragraph 5(ia) of Schedule 2 to the Goods Vehicles (Licensing of Operators) Act 1995[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Paragraph 5(1a) was inserted by S.I. 2007/3538 and amended by S.I. 2010/675.

Commencement

Sch. 29(1) para. 12: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 12: England, Wales

Law In Force

13.— Environment Act 1995

(1) The 1995 Act is amended as follows.

(2) In section 42(3)(b)[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(3) In section 56(1)[2], in paragraph (j) of the definition of "environmental licence" in the application of Part 1 of the 1995 Act in relation to an appropriate agency, for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(4) In paragraph 4(3)(d) of Schedule 20[3], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 42(3)(b) was substituted by S.I. 2010/675.

[2] Paragraph (j) of the definition of "environmental licence" was substituted by S.I. 2009/3381.

[3] Paragraph 4(3)(d) of Schedule 20 was inserted by S.I. 2000/1973 and substituted by S.I. 2010/675.

Commencement

Sch. 29(1) para. 13(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 13(1)-(4): England, Wales

Law In Force

14. Petroleum Act 1998

In section 4B(8) of the Petroleum Act 1998[1], in the definition of "environmental permit", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 4B was inserted by section 50 of the Infrastructure Act 2015 (c. 7).

Commencement

Sch. 29(1) para. 14: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 14: England, Wales

Law In Force

15. Finance Act 2000

In paragraph 51(6) of Schedule 6 to the Finance Act 2000[1] , in the definition of "primary activity", in the table—

(a) in the heading before entry 1, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in entry 5(1), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)";

(c) in entry 5(2)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amendments to paragraph 51(6) were made by S.I. 2001/1139, 2007/3538 and 2010/675.

Commencement

Sch. 29(1) para. 15(a)-(c): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 15(a)-(c): England, Wales

Law In Force

16.— Energy Act 2004

(1) The Energy Act 2004 is amended as follows.

(2) In section 10(2)(b)[1] , for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

(3) In section 37(7)[2] , in the definition of "radioactive waste", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 10 was amended by S.I. 2010/675.

[2] The definition was amended by S.I. 2010/675.

Commencement

Sch. 29(1) para. 16(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 16(1)-(3): England, Wales

Law In Force

17. Planning Act 2008

In section 30A(7) of the Planning Act 2008[1], in the definition of "radioactive waste", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 30A was inserted by S.I. 2015/949.

Commencement

Sch. 29(1) para. 17: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 17: England, Wales

Law In Force

18. Energy Act 2008

In section 59(2)(d) of the Energy Act 2008[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Section 59(2)(d) was amended by S.I. 2010/675.

Commencement

Sch. 29(1) para. 18: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 18: England, Wales

Law In Force

19. Scrap Metal Dealers Act 2013

In section 22(7)(a) of the Scrap Metal Dealers Act 2013, for "the Environmental (Permitting) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Commencement

Sch. 29(1) para. 19: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 19: England, Wales

Law In Force

20. Defence Reform Act 2014

In the Defence Reform Act 2014[1] —

(a) in the heading before paragraph 6 of Schedule 1, for "Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph 6 of Schedule 1, for "The Environmental Permitting (England and Wales) Regulations 2010" substitute "The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)".

Notes

[1] Schedule 1 comes into force on a day to be appointed.

Commencement

Sch. 29(1) para. 20(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(1) para. 20(a)-(b): England, Wales

PART 2

Subordinate legislation

Law In Force

1. Deposits in the Sea (Exemptions) Order 1985

In article 4(2) of the Deposits in the Sea (Exemptions) Order 1985[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 1994/1056, 2007/3538 and 2010/675.

Commencement

Sch. 29(2) para. 1: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 1: England, Wales

Law In Force

2. Town and Country Planning (Use Classes) Order 1987

In article 3(8) of the Town and Country Planning (Use Classes) Order 1987[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 2002/1875 (W. 184) and 2010/675.

Commencement

Sch. 29(2) para. 2: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 2: England, Wales

Law In Force

3. Civil Jurisdiction (Offshore Activities) Order 1987

In the Civil Jurisdiction (Offshore Activities) Order 1987[1] —

(a) in the heading of article 4, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in article 4, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675 and 2011/2043.

Commencement

Sch. 29(2) para. 3(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 3(a)-(b): England, Wales

Law In Force

4. Urban Waste Water Treatment (England and Wales) Regulations 1994

In regulation 2 of the Urban Waste Water Treatment (England and Wales) Regulations 1994[1], in the definition of "Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 4: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 4: England, Wales

Law In Force

5. Landfill Tax Regulations 1996

In regulation 33(4)(h) of the Landfill Tax Regulations 1996[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 2007/3538 and 2010/675.

Commencement

Sch. 29(2) para. 5: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 5: England, Wales

Law In Force

6. Water Protection Zone (River Dee Catchment) Designation Order 1999

In article 2 of the Water Protection Zone (River Dee Catchment) Designation Order 1999[1] —

(a) in the definition of "catchment control site", for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (ii) of the definition of "controlled substance", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 2007/3538 and 2010/675.

Commencement

Sch. 29(2) para. 6(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 6(a)-(b): England, Wales

Law In Force

7. Ionising Radiations Regulations 1999

In regulation 30(2)(a) of the Ionising Radiations Regulations 1999[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 7: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 7: England, Wales

Law In Force

8. Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000

In Schedule 3 to the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 8: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 8: England, Wales

Law In Force

9. Non-automatic Weighing Instruments Regulations 2000

In regulation 28(7) of the Non-automatic Weighing Instruments Regulations 2000[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 9: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 9: England, Wales

Law In Force

10. Control of Pollution (Oil Storage) (England) Regulations 2001

In regulation 2(2)(a) of the Control of Pollution (Oil Storage) (England) Regulations 2001[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 2007/3538 and 2010/675.

Commencement

Sch. 29(2) para. 10: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 10: England, Wales

Law In Force

11. Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003

In Schedule 3 to the Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675.

Commencement

Sch. 29(2) para. 11: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 11: England, Wales

Law In Force

12. End-of-Life Vehicles Regulations 2003

In regulation 2 of the End-of-Life Vehicles Regulations 2003[1], in the definition of "authorised treatment facility", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 2007/3538 and 2010/675.

Commencement

Sch. 29(2) para. 12: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 12: England, Wales

Law In Force

13. Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003

In Schedule 3 to the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003[1], under "Definition of waste", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 13: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 13: England, Wales

Law In Force

14. Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

For paragraph 17 of Schedule 2 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003[1] , substitute—

> **"17.**
> The Environmental Permitting (England and Wales) Regulations 2016.".

Notes

[1] Amended by S.I. 2015/1623; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 14: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 14: England, Wales

Law In Force

15. Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004

For paragraph 14 of Schedule 2 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004[1] substitute—

> **"14.**
> The Environmental Permitting (England and Wales) Regulations 2016.".

Notes

[1] Amended by S.I. 2016/139.

Commencement

Sch. 29(2) para. 15: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 15: England, Wales

Law In Force

16. Hazardous Waste (England and Wales) Regulations 2005

In regulation 5(1) of the Hazardous Waste (England and Wales) Regulations 2005[1] , in the definition of "the Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 16: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 16: England, Wales

Law In Force

17.— Hazardous Waste (Wales) Regulations 2005

(1) The Hazardous Waste (Wales) Regulations 2005[1] are amended as follows.

(2) In regulation 5(1)—

(a) in the English language text, for the definition of "the Environmental Permitting Regulations" substitute—

> ""the Environmental Permitting Regulations" (*"y Rheoliadau Trwyddedu Amgylcheddol"*) means the Environmental Permitting (England and Wales) Regulations 2016;";

(b) in the Welsh language text—

(i) in the appropriate place insert the following definitions—

> "mae i "esemptiad sylweddau ymbelydrol" (*"radioactive substances exemption"*) yr ystyr a roddir i ""radioactive substances exemption"" yn rheoliad 2(1) o'r Rheoliadau Trwyddedu Amgylcheddol;";
>
> "mae i "gweithgaredd sylweddau ymbelydrol" (*"radioactive substances activity"*) yr ystyr a roddir i ""radioactive substances activity" yn Atodlen 23 i'r Rheoliadau Trwyddedu Amgylcheddol;";
>
> "mae i "gwastraff ymbelydrol" (*""radioactive waste""*) yr ystyr a roddir i "radioactive waste" yn Atodlen 23 i'r Rheoliadau Trwyddedu Amgylcheddol;";
>
> "ystyr "y Rheoliadau Trwyddedu Amgylcheddol" ("the Environmental Permitting Regulations") yw Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016;";

"mae i "trwydded amgylcheddol" (*"environmental permit"*) yr ystyr a roddir i "environmental permit" yn y Rheoliadau Trwyddedu Amgylcheddol;";

(ii) for the definition of "esemptiad cofrestredig" ("registered exemption") substitute—

"ystyr "esemptiad cofrestredig" ("registered exemption") yw gwaith gwastraff esempt o fewn ystyr y Rheoliadau Trwyddedu Amgylcheddol;".

(3) In regulation 15, in the Welsh language text, for paragraph (1) substitute—

"(1) Mae'r rheoliad hwn yn gymwys i wastraff ymbelydrol—

(a) pan nad yw gweithgaredd sylweddau ymbelydrol mewn cysylltiad â'r gwastraff ymbelydrol hynny yn gofynni trwydded amgylcheddol yn rhinwedd esemptiad sylweddau ymbelydrol; a

(b) pan fod gan y gwastraff ymbelydrol un neu fwy o nodweddion peryglys yn codi heb fod o'i natur ymbelydrol.".

(4) In regulation 22(2), in the Welsh language text, for "thrwydded rheoli gwastraff" substitute "thrwydded amgylcheddol".

(5) In regulation 26(4), in the Welsh language text, in sub-paragraph (ch), for "baragraff 13 o Atodlen 4 i Reoliadau 1994" substitute "reoliad 34(2) o'r Rheoliadau Trwyddedu Amgycheddol".

Notes

[1] Relevant amending instruments are S.I. 2007/3538, 2010/675 and 2011/2043; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 17(1)-(5): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 17(1)-(5): England, Wales

Law In Force

18. Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006

In regulation 16(3) of the Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 18: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 18: England, Wales

Law In Force

19. Measuring Instruments (Automatic Catchweighers) Regulations 2006

In regulation 18(5) of the Measuring Instruments (Automatic Catchweighers) Regulations 2006[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 19: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 19: England, Wales

Law In Force

20. Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006

In Part 1 of Schedule 5 to the Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 20: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 20: England, Wales

Law In Force

21. Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006

In regulation 17(4) of the Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006[1] —

(a) for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016";
(b) for "the 2007 Regulations", in both places it occurs, substitute "the 2016 Regulations".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 21(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 21(a)-(b): England, Wales

Law In Force

22.— Contaminated Land (England) Regulations 2006

(1) The Contaminated Land (England) Regulations 2006[1] are amended as follows.

(2) In regulation 2(1)(e), omit "or by means of Part A(1) mobile plant".

(3) After regulation 2(1)(e) insert—

"(ea) land on which an activity has been carried on by means of Part A(1) mobile plant under a permit, where the activity did not solely consist of things being done which were required by way of remediation;".

(4) In regulation 2(4), for "and "Part A(1) mobile plant" have the same meanings as in the Environmental Permitting (England and Wales) Regulations 2010" substitute "has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2016".

(5) After regulation 2(4) insert—

"(4A) In paragraph (1)(ea), "Part A(1) mobile plant" has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010 as those Regulations were in force on 26th February 2013[2], and "permit" has the same meaning as "environmental permit" in those Regulations as at that date.".

(6) In paragraph 16 of Schedule 3, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 2007/3538 and 2010/675.

[2] The date of 26th February 2013 was the day before S.I. 2010/675 was amended by S.I. 2013/390, removing references to Part A(1) mobile plant.

Commencement

Sch. 29(2) para. 22(1)-(6): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 22(1)-(6): England, Wales

Law In Force

23. Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006

In regulation 17(4) of the Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006[1] —

(a) for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) for "the 2007 Regulations", in both places it occurs, substitute "the 2016 Regulations".

Notes

[1] Amended by S.I. 2008/521; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 23(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 23(a)-(b): England, Wales

Law In Force

24.— Contaminated Land (Wales) Regulations 2006

(1) The Contaminated Land (Wales) Regulations 2006[1] are amended as follows.

(2) In regulation 2—

(a) in the English language text—

(i) in paragraph (1)(e) omit "or by means of Part A(1) mobile plant";

(ii) after paragraph (1)(e) insert—

"(ea) land on which an activity has been carried on by means of Part A(1) mobile plant under a permit, where the activity did not solely consist of things being done which were required by way of remediation;";

(iii) in paragraph (4) for "and "Part A(1) mobile plant" have the same meanings as in the Environmental Permitting (England and Wales) Regulations 2010" substitute "has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2016";

(iv) after paragraph (4) insert—

"(4A) In paragraph (1)(ea), "Part A(1) mobile plant" has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010 as those Regulations were in force on 26th February 2013, and "permit" has

the same meaning as "environmental permit" in those Regulations as at that date.";

(b) in the Welsh language text—

(i) in paragraph (1)(d), omit "neu trwy gyfrwng gwaith symudol Rhan A(1)";

(ii) after paragraph (1)(d) insert—

"(da) tir lle mae gweithgaredd wedi'i gynnal trwy gyfrwng gwaith symudol Rhan A(1) o dan drwydded, pan nad yw'r gweithgaredd yn cynnwys pethau sy'n cael eu gwneud ac y mae'n ofynnol eu gwneud o ran gwaith adfer;";

(iii) for paragraph (4) substitute—

"(4) Ym mharagraff (1)(d), mae i "gweithfan Rhan A(1)" yr ystyr a roddir i "Part A(1) installation" yn Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016, ac mae i "trwydded" yr ystyr a roddir i "environmental permit" yn y Rheoliadau hynny.";

(iv) after paragraph (4) insert—

"(4A) Ym mharagraff (1)(da), mae i "gwaith symudol Rhan A(1)" yr ystyr a roddir i "Part A(1) mobile plant" yn Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010 fel yr oedd mewn grym ar 26 Chwefror 2013, ac mae i "trwydded" yr ystyr a roddir i "environmental permit" yn y Rheoliadau hynny ar y dyddiad hwnnw.".

(3) In paragraph 16 of Schedule 3—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text—

(i) in the words before sub-paragraph (a), for "gydsyniad a roddwyd o dan Bennod 2 o Ran 3 o Ddeddf Adnoddau Dwr 1991 (troseddau llygru)" substitute "trwydded amgylcheddol a roddir o dan reoliad 13 o Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016";

(ii) in sub-paragraph (a), for "cydsyniad" substitute "trwydded amgylcheddol".

Notes

[1] Relevant amending instruments are S.I. 2007/3538 and 2010/675.

Commencement

Sch. 29(2) para. 24(1)-(3)(b)(ii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 24(1)-(3)(b)(ii): England, Wales

Law In Force

25. Producer Responsibility Obligations (Packaging Waste) Regulations 2007

In regulation 2(2) of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007[1], in the definition of "relevant authorisation", for "the Environmental Permitting (England and Wales) Regulations 2010", in both places it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 2007/3538 and 2010/675.

Commencement

Sch. 29(2) para. 25: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 25: England, Wales

Law In Force

26. Persistent Organic Pollutants Regulations 2007

In regulation 4(1)(b) and (2) of the Persistent Organic Pollutants Regulations 2007[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 26: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 26: England, Wales

Law In Force

27. Cremation (England and Wales) Regulations 2008

In regulation 29(2) of the Cremation (England and Wales) Regulations 2008[1], in the definitions of "incinerated" and "permit", for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 27: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 27: England, Wales

Law In Force

28. Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009

In regulation 2(1) of the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009[1] —

(a) in paragraph (m)(vi), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (n), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2014/3070; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 28(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 28(a)-(b): England, Wales

Law In Force

29. Waste Batteries and Accumulators Regulations 2009

In paragraph 12(2) of Schedule 4 to the Waste Batteries and Accumulators Regulations 2009[1] , for "the Environmental Permitting (England and Wales) Regulations 2010", in both places it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2010/675; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 29: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 29: England, Wales

Law In Force

30.— Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009

(1) The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009[1] are amended as follows.

(2) In regulation 10—

(a) in the English language text, in the heading and in paragraph (1), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text—

(i) in the heading, for "Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016";

(ii) in paragraph (1), for "Reoliadau Caniatáu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

(3) In regulation 11(1)—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text, for "Reoliadau Caniatáu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

(4) In paragraph 1(a) of Schedule 3—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text, for "Reoliadau Caniatáu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

Notes

[1] Amended by S.I. 2012/630; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 30(1)-(4)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 30(1)-(4)(b): England, Wales

Law In Force

31.— Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009

(1) The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009[1] are amended as follows.

(2) In regulation 2—

(a) for the definition of "the 2010 Regulations" substitute—

""the 2016 Regulations" means the Environmental Permitting (England and Wales) Regulations 2016;"

(b) for the definition of "competent authority" substitute—

"competent authority" means, in relation to an area, the fire and rescue authority under the Fire and Rescue Services Act 2004[2] for that area;

(c) in the definition of "operator", for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the 2016 Regulations";

(d) in the definition of "regulator", for "the 2010 Regulations", in both places it occurs, substitute "the 2016 Regulations".

(3) In regulation 9(3), for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the 2016 Regulations".

Notes

1 Amended by S.I. 2013/755 (W. 90); there are other amending instruments but none is relevant.

2 Section 1 was amended by paragraph 10(1) and (2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36)."

Commencement

Sch. 29(2) para. 31(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 31(1)-(3): England, Wales

Law In Force

32. Corporation Tax (Land Remediation Relief) Order 2009

In article 4(2)(b) of the Corporation Tax (Land Remediation Relief) Order 2009 for paragraph (i) substitute—

"(i) the Environmental Permitting (England and Wales) Regulations 2016,".

Commencement

Sch. 29(2) para. 32: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 32: England, Wales

Law In Force

33. Mercury Export and Data (Enforcement) Regulations 2010

In regulation 5(4)(a) of the Mercury Export and Data (Enforcement) Regulations 2010[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2012/630; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 33: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 33: England, Wales

Repealed

34. […][1]

Notes

[1] Revoked by Conservation of Habitats and Species Regulations 2017/1012 Sch.6(2) para.73(4) (November 30, 2017)

Law In Force

35. River Mersey (Mersey Gateway Bridge) Order 2011

In article 14(7) of the River Mersey (Mersey Gateway Bridge) Order 2011, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 35: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 35: England, Wales

Law In Force

36.— Waste (England and Wales) Regulations 2011

(1) The Waste (England and Wales) Regulations 2011[1] are amended as follows.

(2) After regulation 29(5A)(z), insert—

> "(z1) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016.".

(3) In regulation 35(2)(c)—

(a) in paragraph (v), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (vi), for "regulation 68(2) of the Environmental Permitting (England and Wales) Regulations 2010" substitute "regulation 4(3) of the Environmental Permitting (England and Wales) Regulations 2016".

(4) In regulation 46(1)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(5) In regulation 47—

(a) in paragraphs (1)(b)(i) and (4), for "the Environmental Permitting (England and Wales) Regulations 2010", in each place it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (4), in the definitions of "radioactive substances exemption" and "specified waste", for "Part 7", in each place it occurs, substitute "Part 6".

Notes

[1] Relevant amending instruments are S.I. 2011/2043, 2013/755 (W. 90) and 2014/656.

Commencement

Sch. 29(2) para. 36(1)-(5)(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 36(1)-(5)(b): England, Wales

Law In Force

37. Network Rail (Hitchin (Cambridge Junction)) Order 2011

In article 14(7) of the Network Rail (Hitchin (Cambridge Junction)) Order 2011, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 37: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 37: England, Wales

Law In Force

38. Town and Country Planning (Environmental Impact Assessment) Regulations 2011

In paragraph 2 of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011[1], at sub-paragraph 3(g) of the table, in paragraph (ii) of column 2—

(a) for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) for "paragraph 5(2)(b), (2)(c) or (4)" substitute "paragraph 11(2)(b), (2)(c) or (4)".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 38(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 38(a)-(b): England, Wales

Law In Force

39.— Renewable Heat Incentive Scheme Regulations 2011

(1) The Renewable Heat Incentive Scheme Regulations 2011[1] are amended as follows.

(2) In regulation 2(1), in the definition of "environmental permit", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 1(2)(m) of Schedule 1, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Relevant amending instruments are S.I. 2013/2410 and 2016/257.

Commencement

Sch. 29(2) para. 39(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 39(1)-(3): England, Wales

Law In Force

40. Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012

In regulation 3(4) of the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012[1], for paragraph (a) of the definition of "solvent emission activity" substitute—

> "(a) Schedule 14 to the Environmental Permitting (England and Wales) Regulations 2016;".

Notes

[1] Amended by S.I. 2013/390; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 40: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 40: England, Wales

Law In Force

41. Ipswich Barrier Order 2012

In article 13(4) of the Ipswich Barrier Order 2012, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 41: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 41: England, Wales

Law In Force

42. Network Rail (Ipswich Chord) Order 2012

In article 13(7) of the Network Rail (Ipswich Chord) Order 2012[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 42: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 42: England, Wales

Law In Force

43. Network Rail (North Doncaster Chord) Order 2012

In article 20(7) of the Network Rail (North Doncaster Chord) Order 2012[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 43: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 43: England, Wales

Law In Force

44. Chiltern Railways (Bicester to Oxford Improvements) Order 2012

In article 19(7) of the Chiltern Railways (Bicester to Oxford Improvements) Order 2012, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 44: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 44: England, Wales

Law In Force

45. Climate Change Agreements (Eligible Facilities) Regulations 2012

In paragraphs 23 and 36(a) of the Schedule to the Climate Change Agreements (Eligible Facilities) Regulations 2012[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 45: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 45: England, Wales

Law In Force

46. Greenhouse Gas Emissions Trading Scheme Regulations 2012

For paragraph 1(2)(b)(i) of Schedule 4 to the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (permits)[1], substitute—

"(i) the Environmental Permitting (England and Wales) Regulations 2016;".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 46: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 46: England, Wales

Law In Force

47. Crossrail (Kensal Green) Order 2013

In article 5(7) of the Crossrail (Kensal Green) Order 2013, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 47: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 47: England, Wales

Law In Force

48. Brechfa Forest West Wind Farm Order 2013

In article 12(7) of the Brechfa Forest West Wind Farm Order 2013[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 48: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 48: England, Wales

Law In Force

49. Hinkley Point C (Nuclear Generating Station) Order 2013

In article 21(7) of the Hinkley Point C (Nuclear Generating Station) Order 2013[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 49: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 49: England, Wales

Law In Force

50. Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013

In article 16(7) of the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 50: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 50: England, Wales

Law In Force

51. Leeds Railway Station (Southern Entrance) Order 2013

In article 13(7) of the Leeds Railway Station (Southern Entrance) Order 2013, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 51: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 51: England, Wales

Law In Force

52. Croxley Rail Link Order 2013

In article 13(7) of the Croxley Rail Link Order 2013, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 52: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 52: England, Wales

Law In Force

53.— Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

(1) The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 are amended as follows.

(2) In regulation 3(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In Part 2 of the Schedule, after paragraph (b), insert—

> "(bb) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 53(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 53(1)-(3): England, Wales

Law In Force

54. Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013

In article 20(7) of the Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 54: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 54: England, Wales

Law In Force

55. M1 Junction 10a (Grade Separation) Order 2013

In article 16(7) of the M1 Junction 10a (Grade Separation) Order 2013, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 55: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 55: England, Wales

Law In Force

56. Network Rail (Redditch Branch Enhancement) Order 2013

In article 13(7) of the Network Rail (Redditch Branch Enhancement) Order 2013[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] .

Commencement

Sch. 29(2) para. 56: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 56: England, Wales

Law In Force

57. Waste Electrical and Electronic Equipment Regulations 2013

In regulation 2(1) of the Waste Electrical and Electronic Equipment Regulations 2013[1], in the definition of "relevant authorisation", for "the Environmental Permitting (England and Wales) Regulations 2010", in both places it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 57: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 57: England, Wales

Law In Force

58. National Grid (King's Lynn B Power Station Connection) Order 2013

In article 14(7) and (8)(b) of the National Grid (King's Lynn B Power Station Connection) Order 2013, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 58: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 58: England, Wales

Law In Force

59. Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order 2013

In article 17(7) of the Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order 2013, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 59: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 59: England, Wales

Law In Force

60. Network Rail (Norton Bridge Area Improvements) Order 2014

In article 18(7) of the Network Rail (Norton Bridge Area Improvements) Order 2014, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 60: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 60: England, Wales

Law In Force

61. National Grid (North London Reinforcement Project) Order 2014

In article 17(7) and (10)(c) of the National Grid (North London Reinforcement Project) Order 2014, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 61: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 61: England, Wales

Law In Force

62.— East Anglia ONE Offshore Wind Farm Order 2014

(1) The East Anglia ONE Offshore Wind Farm Order 2014[1] is amended as follows.

(2) In article 13(7) and (8)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 4(a) of Part 4 of Schedule 9, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 62(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 62(1)-(3): England, Wales

Law In Force

63. Daventry International Rail Freight Interchange Alteration Order 2014

In article 17(7) of the Daventry International Rail Freight Interchange Alteration Order 2014, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 63: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 63: England, Wales

Law In Force

64. Rampion Offshore Wind Farm Order 2014

In article 20(7) of the Rampion Offshore Wind Farm Order 2014[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 64: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 64: England, Wales

Law In Force

65. Network Rail (Huyton) Order 2014

In article 13(7) of the Network Rail (Huyton) Order 2014, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 65: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 65: England, Wales

Law In Force

66. A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014

In article 15(7) of the A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 66: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 66: England, Wales

Law In Force

67. Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014

In article 19(7) of the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 67: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 67: England, Wales

Law In Force

68.— North Killingholme (Generating Station) Order 2014

(1) The North Killingholme (Generating Station) Order 2014[1] is amended as follows.

(2) In article 14(7) and (8), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 4(a) of Part 1 of Schedule 8, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 68(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 68(1)-(3): England, Wales

Law In Force

69. Clocaenog Forest Wind Farm Order 2014

In article 18(7) of the Clocaenog Forest Wind Farm Order 2014, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 69: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 69: England, Wales

Law In Force

70. Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014

In article 16(7) of the Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 70: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 70: England, Wales

Law In Force

71. South Hook Combined Heat and Power Plant Order 2014

In article 2 of the South Hook Combined Heat and Power Plant Order 2014, in the definition of "the Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 71: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 71: England, Wales

Law In Force

72.— Able Marine Energy Park Development Consent Order 2014

(1) The Able Marine Energy Park Development Consent Order 2014 is amended as follows.

(2) In article 20(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 102(a) of Part 11 of Schedule 9, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 72(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 72(1)-(3): England, Wales

Law In Force

73. Walney Extension Offshore Wind Farm Order 2014

In article 15(7) and (9)(b) of the Walney Extension Offshore Wind Farm Order 2014[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 73: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 73: England, Wales

Law In Force

74. London Underground (Northern Line Extension) Order 2014

In article 16(7) of the London Underground (Northern Line Extension) Order 2014, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 74: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 74: England, Wales

Law In Force

75. Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014

In paragraph 3 of Schedule 1 to the Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014[1] —

(a) in the English language text—

(i) for "the Environmental Permitting (England and Wales) Regulations 2010", in each place it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(ii) in sub-paragraph (2), for "regulation 35(2)(p)" substitute "regulation 35(2)";

(b) in the Welsh language text—

(i) in sub-paragraph (1), for "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016";

(ii) in sub-paragraph (2), for "rheoliad 35(2)(p) o Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "rheoliad 35(2) o Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016";

(iii) in sub-paragraph (3), for "Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010", in both places it occurs, substitute "Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 75(a)-(b)(iii): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 75(a)-(b)(iii): England, Wales

Repealed

76. […][1]

Notes

[1] Revoked by Agriculture (Removal of Cross-Compliance and Miscellaneous Revocations and Amendments, etc.) (England) Regulations 2023/816 Sch.1(1) para.1 (January 1, 2024: revocation has effect subject to saving specified in SI 2023/816 Sch.1 Pt 2 para.2)

Law In Force

77. Willington C Gas Pipeline Order 2014

In article 14(7) and (8)(b) of the Willington C Gas Pipeline Order 2014[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 77: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 77: England, Wales

Law In Force

78.— Hornsea One Offshore Wind Farm Order 2014

(1) The Hornsea One Offshore Wind Farm Order 2014[1] is amended as follows.

(2) In article 12(7) and (9)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 61(a) of Part 6 of Schedule 12, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 78(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 78(1)-(3): England, Wales

Law In Force

79. Northumberland County Council (A1 - South East Northumberland Link Road (Morpeth Northern Bypass)) Development Consent Order 2015

In article 18(7) of the Northumberland County Council (A1 – South East Northumberland Link Road (Morpeth Northern Bypass)) Development Consent Order 2015, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 79: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 79: England, Wales

Law In Force

80.— A160/A180 (Port of Immingham Improvement) Development Consent Order 2015

(1) The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015[1] is amended as follows.

(2) In article 16(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 17(a) of Part 2 of Schedule 8, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 80(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 80(1)-(3): England, Wales

Law In Force

81.— Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015

(1) The Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015[1] is amended as follows.

(2) In article 16(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 11(3) of Schedule 2, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 81(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 81(1)-(3): England, Wales

Law In Force

82. Dogger Bank Creyke Beck Offshore Wind Farm Order 2015

In article 17(7) of the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 82: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 82: England, Wales

Law In Force

83. Ship Recycling Facilities Regulations 2015

In regulation 2 of the Ship Recycling Facilities Regulations 2015, in the definitions of "permit" and "suspension notice", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 83: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 83: England, Wales

Law In Force

84. Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015

In Schedule 2 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015[1] —

(a) in Part 1, for "Environmental Permitting (England and Wales) Regulations 2010" substitute "Environmental Permitting (England and Wales) Regulations 2016";

(b) in Part 2, for "Environmental Permitting (England and Wales) Regulations 2010" substitute "Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 84(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 84(a)-(b): England, Wales

Law In Force

85.— Control of Major Accidents Hazards Regulations 2015

(1) The Control of Major Accidents Hazards Regulations 2015[1] are amended as follows.

(2) In regulation 2—

(a) omit the definition of "the 2010 Regulations";

(b) in the appropriate place insert—

> ""the 2016 Regulations" means the Environmental Permitting (England and Wales) Regulations 2016;"

(3) In regulation 21(1), for "the 2010 Regulations" substitute "the 2016 Regulations".

(4) In regulation 25(7)(c) and (11)(a), for "the 2010 Regulations" substitute "the 2016 Regulations".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 85(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 85(1)-(4): England, Wales

Law In Force

86. Town and Country Planning (General Permitted Development) (England) Order 2015

In Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015[1] —

(a) in section L.3 of Part 7, in the definitions of "waste management facility" and "waste operation", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in section N.1 of Part 17, in the definition of "groundwater", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] Amended by S.I. 2016/332; there are other amending instruments but none is relevant.

Commencement

Sch. 29(2) para. 86(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 86(a)-(b): England, Wales

Law In Force

87. Nitrate Pollution Prevention Regulations 2015

In regulation 2(1) of the Nitrate Pollution Prevention Regulations 2015, in the definition of "anaerobic digestion", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 87: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 87: England, Wales

Law In Force

88. Knottingley Power Plant Order 2015

In article 15(7) of the Knottingley Power Plant Order 2015[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 88: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 88: England, Wales

Law In Force

89. Network Rail (Ordsall Chord) Order 2015

In article 17(7) of the Network Rail (Ordsall Chord) Order 2015, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 89: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 89: England, Wales

Law In Force

90.— Environmental Damage (Prevention and Remediation) (England) Regulations 2015

(1) The Environmental Damage (Prevention and Remediation) (England) Regulations 2015[1] are amended as follows.

(2) In the heading of regulation 10, and in regulation 10(1), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In regulation 11(1), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(4) In paragraph 1(a) of Schedule 4, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 90(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 90(1)-(4): England, Wales

Law In Force

91. White Moss Landfill Order 2015

In article 9(7) of the White Moss Landfill Order 2015, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 91: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 91: England, Wales

Law In Force

92. Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015

In article 17(7) of the Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 92: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 92: England, Wales

Law In Force

93. Hazardous Waste (Miscellaneous Amendments) Regulations 2015

In paragraph 3 of Schedule 2 to the Hazardous Waste (Miscellaneous Amendments) Regulations 2015, in the definitions of "permit" and "standard rule", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 93: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 93: England, Wales

Law In Force

94. Swansea Bay Tidal Generating Station Order 2015

In article 13(7) of the Swansea Bay Tidal Generating Station Order 2015[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 94: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 94: England, Wales

Law In Force

95. Preesall Underground Gas Storage Facility Order 2015

In article 15(7) of the Preesall Underground Gas Storage Facility Order 2015[1], for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 95: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 95: England, Wales

Law In Force

96.— Progress Power (Gas Fired Power Station) Order 2015

(1) The Progress Power (Gas Fired Power Station) Order 2015[1] is amended as follows.

(2) In article 2(1), in the definition of "gross rated electrical output", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 15(7) and (8)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 96(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 96(1)-(3): England, Wales

Law In Force

97.— Hirwaun Generating Station Order 2015

(1) The Hirwaun Generating Station Order 2015[1] is amended as follows.

(2) In article 2(1), in the definition of "gross rated electrical output", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 14(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 97(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 97(1)-(3): England, Wales

Law In Force

98. Dogger Bank Teesside A and B Offshore Wind Farm Order 2015

In article 18(7) of the Dogger Bank Teesside A and B Offshore Wind Farm Order 2015, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 98: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 98: England, Wales

Law In Force

99.— Ferrybridge Multifuel 2 Power Station Order 2015

(1) The Ferrybridge Multifuel 2 Power Station Order 2015[1] is amended as follows.

(2) In article 2(1), for the definition of "2010 Regulations" substitute—

""2016 Regulations" means the Environmental Permitting (England and Wales) Regulations 2016;"

(3) In article 12(7) and (8), for "the 2010 Regulations" substitute "the 2016 Regulations".

(4) In paragraph 49(1) of Schedule 2, in the definition of "environmental permit", for "the 2010 Regulations" substitute "the 2016 Regulations".

Notes

[1] To which there are amendments not relevant to these Regulations.

Commencement

Sch. 29(2) para. 99(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 99(1)-(4): England, Wales

Law In Force

100. Network Rail (Tinsley Chord) Order 2015

In article 8(8) of the Network Rail (Tinsley Chord) Order 2015, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 100: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 100: England, Wales

Law In Force

101. Large Combustion Plants (Transitional National Plan) Regulations 2015

In regulation 2(1) of the Large Combustion Plants (Transitional National Plan) Regulations 2015, in the definitions of "permit" and "permitting functions", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 101: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 101: England, Wales

Law In Force

102. Port Talbot Steelworks Generating Station Order 2015

In article 10(7) of the Port Talbot Steelworks Generating Station Order 2015, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 102: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 102: England, Wales

Law In Force

103. London Underground (Bank Station Capacity Upgrade) Order 2015

In article 17(7) of the London Underground (Bank Station Capacity Upgrade) Order 2015, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 103: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 103: England, Wales

Law In Force

104. East Midlands Gateway Rail Freight Interchange and Highway Order 2016

In article 22(7) of the East Midlands Gateway Rail Freight Interchange and Highway Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 104: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 104: England, Wales

Law In Force

105. National Grid (Hinkley Point C Connection Project) Order 2016

In article 16(7), (8) and (10)(b) of the National Grid (Hinkley Point C Connection Project) Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 105: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 105: England, Wales

Law In Force

106. Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016

In paragraph 2 of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016, at sub-paragraph 3(g) of the table, in paragraph (ii) of column 2—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text, for "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

Commencement

Sch. 29(2) para. 106(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 106(a)-(b): England, Wales

Law In Force

107. A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016

In article 15(7) of the A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 107: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 107: England, Wales

Law In Force

108. Palm Paper Mill Generating Station Order 2016

In article 10(7) and (8)(c) of the Palm Paper Mill Generating Station Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 108: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 108: England, Wales

Law In Force

109. Thorpe Marsh Gas Pipeline Order 2016

In article 17(7) and (8)(b) of the Thorpe Marsh Gas Pipeline Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 109: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 109: England, Wales

Law In Force

110. Water Resources (Control of Pollution) (Oil Storage) (Wales) Regulations 2016

In regulation 3(3) of the Water Resources (Control of Pollution) (Oil Storage) (Wales) Regulations 2016—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text, for "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

Commencement

Sch. 29(2) para. 110(a)-(b): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 110(a)-(b): England, Wales

Law In Force

111. Onshore Hydraulic Fracturing (Protected Areas) Regulations 2016

In regulation 2(4) of the Onshore Hydraulic Fracturing (Protected Areas) Regulations 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 111: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 111: England, Wales

Law In Force

112. The Midland Metro (Birmingham City Centre Extension, etc.) (Land Acquisition and Variation) Order 2016

In article 15(7) of the Midland Metro (Birmingham City Centre Extension, etc.) (Land Acquisition and Variation) Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 112: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 112: England, Wales

Law In Force

113.— The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016

(1) The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 is amended as follows.

(2) In article 3 of Part 1—

(a) in paragraph (1)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (2), for "Schedule 23ZA (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2010" substitute "Schedule 25 (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 17(6) of Part 4, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 113(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 113(1)-(3): England, Wales

Law In Force

114.— The Midland Metro (Wolverhampton City Centre Extension) Order 2016

(1) Part 2 of the Midland Metro (Wolverhampton City Centre Extension) Order 2016 is amended as follows.

(2) In article 6—

(a) in paragraph (9), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (10), for "Schedule 23ZA (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2010" substitute "Schedule 25 (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 20(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 114(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 114(1)-(3): England, Wales

Law In Force

115. The York Potash Harbour Facilities Order 2016

In article 14(7) of the York Potash Harbour Facilities Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 115: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 115: England, Wales

Law In Force

116. The Meaford Gas Fired Generating Station Order 2016

In article 16(6) of the Meaford Gas Fired Generating Station Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 116: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 116: England, Wales

Law In Force

117. The North Wales Wind Farms Connection Order 2016

In article 16(8) of the North Wales Wind Farms Connection Order 2016, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 117: January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 117: England, Wales

Law In Force

118.— The Hornsea Two Offshore Wind Farm Order 2016

(1) The Hornsea Two Offshore Wind Farm Order 2016 is amended as follows.

(2) In article 3(1)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 15(7) and (9)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(4) In paragraph 5(a) of Part 6 of Schedule 12, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 118(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 118(1)-(4): England, Wales

Law In Force

119.— The River Humber Gas Pipeline Replacement Order 2016

(1) The River Humber Gas Pipeline Replacement Order 2016 is amended as follows.

(2) In article 3(1)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 18(7) and (8)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(4) In paragraph 1(4)(a) of Part 4 of Schedule 10, for "the Environmental Permitting Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 119(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 119(1)-(4): England, Wales

Law In Force

120.— The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016

(1) The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016 is amended as follows.

(2) In article 16(6), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 17(7) and (8)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 120(1)-(3): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 120(1)-(3): England, Wales

Law In Force

121.— The Triton Knoll Electrical System Order 2016

(1) The Triton Knoll Electrical System Order 2016 is amended as follows.

(2) In article 6(2)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 12(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(4) In paragraph 5(a) of Part 4 of Schedule 8, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

Commencement

Sch. 29(2) para. 121(1)-(4): January 1, 2017 (SI 2016/1154 Pt 1 reg. 1(1))

Extent

Sch. 29(2) para. 121(1)-(4): England, Wales

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 nature8

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.

Westlaw UK

Modifications

Provision	Modification	Notes	Further Information
Whole Document	European Union (Withdrawal) Act 2018 c. 16, s. 2	Despite the repeal of 1972 c.68 by 2018 c.16 s.1, EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law during the implementation period under 2018 c.16 s.1B and on and after IP completion day under 2018 c.16 s.2	

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