

Department for Environment, Food and Rural Affairs

Water Bill

Environmental Permitting Framework: indicative regulations for flood defence consents

November 2013

This note explains the similarities and differences between the current legislation regulating flood defence consents and the proposals in the Water Bill, including an indicative set of draft regulations.

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Introduction

The Water Bill allows for the creation of new regulations to bring flood defence consents, water abstraction licences and fish passage approvals into the Environmental Permitting framework (the “EP framework”). The EP framework is designed to reduce the administration necessary to apply for consents, and to ensure regulators are able to take an efficient, risk-based approach to assessing applications thus reducing burdens and costs to industry. It allows applicants that would otherwise require several permits for activities falling under various regulations on a single site to complete a single application, and to be issued with one permit.

Indicative regulations have been prepared to give an indication of how Defra and Welsh Ministers intend to use the powers in clauses 44 and 45 of the Water Bill in relation to permitting of activities currently required to obtain a **flood defence consent**.

This briefing note explains the similarities and differences between the current legislation regulating flood defence consents and Defra’s and Welsh Ministers’ proposals. The indicative regulations (referred to in the following tables as “Ind. Regs”) include a number of provisions amending the Environmental Permitting (England and Wales) Regulations 2010 (referred to as “EPRs”) in order to apply the same general administrative provisions that apply to the other schemes within the EP framework. Where standard EPR provisions are to be applied, these are labelled as such, with a reference to the relevant regulation.

Background

The Environment Agency (EA) and Natural Resources Wales (NRW) have powers to control the activities of others on main rivers¹ and their associated flood plains, and on or near sea defences, that might have an impact on flood risk, land drainage and the water environment. With no regulation watercourses might be blocked or constrained by works, leading to flooding of other property that might not have happened otherwise; flood defence structures might be damaged with the same effect; or activities could cause environmental harm

Works are often proposed for a different purpose than influencing flood risk, but will have impacts on that, hence the requirement for consent. Some of the more common examples include:

- construction of outfalls;
- construction and repair of foot, road or rail bridges;
- works to prevent erosion of river banks and loss of land;
- provision of utility crossings of rivers;

¹ Main rivers are determined by the Secretary of State/ Welsh Ministers and designated by being marked as such on a main river map

- culverting watercourses for access crossings or to increase available land for some activity unrelated to the watercourse;
- sediment control e.g. dredging;
- tipping in floodplain not covered by the grant of planning permission;
- works temporarily affecting watercourses, such as access scaffolding

The current regulatory framework is set out in sections 109 and 110 of the Water Resources Act 1991 and by various regional byelaws made by the regulators under powers in section 210(1) of and paragraph 5 to Schedule 5 to the 1991 Act. Both these provisions can cover work within, above or below the channel of a main river, while byelaws can also control works proposed on the banks of a main river, within the (main river) flood plain and on or near sea defences. The tables below highlight the current legislative arrangement and how it is proposed to be incorporated within the EPRs.

Need for a consent

Current requirements	Proposed requirements
<p>Anyone wishing to;</p> <ul style="list-style-type: none"> • erect structures over, in or under a main river • alter or repair any structures over, in or under a main river (if the work is likely to affect the flow of water or impede any drainage work) • erect or alter structures designed to contain or divert floodwaters of a main river <p>may only do so with the prior consent of and in accordance with plans and sections approved by the EA/NRW. (Section 109(1), (2) & (3) Water Resources Act 1991).</p> <p>Anyone wishing to undertake certain activities controlled by byelaws may only do so with the prior consent of EA/NRW. These byelaws detail extensive lists of activities, but can be summarised as targeting those;</p> <ul style="list-style-type: none"> • erecting an obstruction within a margin alongside main river (typically 8 metres) • erecting structures or heaps (e.g. raising the ground level) in the flood plain unless they have planning permission • carrying out any work to flood defence structures, including cutting into and removing turf • dredging material from the river, bank or bed • ceasing to use or altering any river control works (such as weirs or sluices) • altering the level or direction of flow <p>(Local byelaws made under section 210 and schedule 25, Water Resources Act 1991).</p>	<p>A person may only carry on a watercourse activity (defined as a “regulated facility” under regulation 8, EPRs) where authorised by an environmental permit (standard provision - regulation 12 EPRs). Watercourse activities are defined in Schedule 23A, Part 1, paragraph 3, Ind. Regs as</p> <ul style="list-style-type: none"> • erecting structures over, in or under a main river • altering or repairing any structures over, in or under a main river (if the work is likely to affect the flow of water or impede any drainage work) • erecting or altering structures designed to contain or divert floodwaters of a main river • any dredging including removal of silt; • 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; • any activity within 8 metres of a non-tidal main river or 16 meters of a tidal river which is likely to cause damage to a bank, impede drainage or impede access to the river • any activity on a flood plain which is likely to divert or obstruct the flow of flood water or to impede drainage unless that activity has planning permission; • any activity which is likely to damage or endanger sea defences, or, interfere with access to and along sea defences.

Current requirements	Proposed requirements
<p>The EA/NRW may not unreasonably withhold a permit. (Section 110(2) Water Resources Act 1991)</p>	<p>The EA/NRW must refuse or grant a duly made application for a permit (subject to appropriate permit conditions) (standard provision-regulation 13 EPRs) and must do so for the purpose of achieving the following objectives;</p> <ul style="list-style-type: none"> • Manage flood risk • Secure the drainage of land • Environmental protection. <p>(Schedule 23A, Part 1, paragraph 6 Ind. Regs)</p>

Exemptions from the need for a consent

Current requirements	Proposed requirements
<p>No similar provisions in current legislation</p>	<p>Certain low risk activities are excluded from needing a permit, subject to compliance with certain conditions (standard provisions - regulation 12(2) EPRs). Examples of such activities are set out in Schedule 23A, part 2 Ind. Regs.</p>
<p>Consents are not required when undertaking works in an emergency. However the responsible person must notify the EA/NRW as soon as practicable with details about the deployment and surrounding circumstances. (Section 109(5) Water Resources Act 1991).</p>	<p>A similar exclusion for activities undertaken in an emergency is provided for in Schedule 23A, Part 2, paragraph 5 Ind. Regs.</p>
<p>EA/NRW are able to dispense with the need for a consent if the proposed works are a licensable marine activity and they consider that flood and environmental risk is adequately covered by a marine licence. (Section 109(7) Water Resources Act 1991)</p>	<p>A similar exclusion for licensable marine activities is set out in Schedule 23A, Part 2, paragraph 6 Ind. Regs</p>
<p>No similar provisions in current legislation</p>	<p>Certain low risk activities are exempt from needing a permit, provided the operator registers with the appropriate regulator, and subject to compliance with certain conditions (standard provisions - schedule 2, EPRS). Examples of such activities are set out in Regulation 21 Ind. Regs.</p>

Types of consents

Current requirements	Proposed requirements
No similar provisions in current legislation	The EA/NRW may establish and make available standard rules permits. Standard rules permits set out a number of requirements common to the type of works subject to them and can be used instead of site-specific permit conditions (standard provisions - regulations 26 – 29 EPRs) The EA/NRW is required to consult on their proposals for standard rules permits. In the absence of standard rules, permits are subject to bespoke conditions.
Although current legislation does not make express provision – for convenience the EA/NRW issue permits that consent works on more than one site, or more than one watercourse activity at a site	The EA/NRW may issue a permit to a single operator authorising more than one watercourse activity on one site or across multiple sites (Regulation 8, Ind. Regs).

Variation, transfer and revocation of consents

Current requirements	Proposed requirements
No similar provisions in current legislation	<p>The EA/NRW may vary a permit on the application of the operator (standard provisions - regulation 20 EPRs). Applicants may wish to vary a permit in order e.g. to change from a box culvert to a round culvert; or to transfer the permit from the developer to site occupier. The EA/NRW may, on their own initiative, vary a watercourse activity permit in certain circumstances (Regulation 9, Ind. Regs).</p> <p>The EA/NRW may transfer a permit from the operator to a proposed transferee (standard provisions -regulation 21 EPRs).</p> <p>The EA/NRW may revoke a permit, either in whole or in part. Before doing so, they must serve notice on the operator (standard provisions -regulation 22 EPRs).</p>

Consideration and issuing of consent

Current requirements	Proposed requirements
<p>EA/NRW must consider and either issue or withhold a consent within 2 calendar months from the day an application is made. If the consent is not given or refused within 2 months, then it shall be deemed to be granted. (Section 110(2) Water Resources Act 1991).</p> <p>There is no formal timescale for determination of byelaw consent applications, however the EA/NRW respond within 2 months as for section 109 applications.</p>	<p>If the EA/NRW has not determined an application for a stand- alone watercourse activity within 2 months and the applicant serves a notice referring to this fact, the application is deemed to have been refused. Where a permit application is not limited to stand-alone watercourse activities, the application must be determined within 3 months, or where public participation is required, 4 months (standard provisions -schedule 5, paragraph 15 EPRs, and Regulation 22 Ind. Regs). The EA/NRW may also agree with the applicant to determine the application according to longer timescales.</p>
<p>There is no formal power to extend the 2 month determination deadline. If EA/NRW have not received sufficient information from the applicant with which to determine the application they will therefore have to refuse to issue a consent. The applicant will then have to submit a new application.</p>	<p>The EA/NRW may “stop the clock” if, as a result of their considerations or consultations, they require further information from the applicant. The clock starts again once the regulator has received all the information required by the request (standard provisions - schedule 5, paragraph 16, EPRs).</p>
<p>EA/NRW may charge £50 for an application for a consent, or such other sum set in an Order. (Section 110(1) Water Resources Act 1991)</p>	<p>The EA/NRW may make a scheme setting fees for applying, varying, transferring and surrendering permits, as well as subsistence of the permit. Fees must be set, so far as possible, at a cost recovery level (standard provisions - section 41, Environment Act 1995, as read with section 56(1)).</p>
<p>The EA/NRW may impose reasonable conditions on the consent concerning the time at which and the manner in which any work is to be carried out. (Section 110(2) Water Resources Act 1991)</p>	<p>The EA/NRW may grant an application subject to such conditions as it sees fit (standard provisions - schedule 5 paragraph 12, EPRs) and for the purposes of achieving the following objectives:</p> <ul style="list-style-type: none"> • Manage flood risk • Secure the drainage of land • Environmental protection <p>(schedule 23A, Part 1, paragraph 6 Ind. Regs).</p> <p>The EA/NRW may also impose conditions relating to on-going operation or maintenance (schedule 23A, Part 1, paragraph 7, Ind. Regs)</p>

Current requirements	Proposed requirements
<p>If an applicant considers that a consent has been unreasonably withheld, or the conditions are unreasonable, they may go to arbitration, or if the parties do not agree to arbitration, may appeal. (Section 110(4) Water Resources Act 1991)</p>	<p>An applicant can appeal if their application for a permit has been refused or where they consider the conditions imposed on a permit are unreasonable (standard provisions -regulation 31, EPRs).</p>

Enforcement

Current requirements	Proposed requirements
<p>If any person carries out work without a flood defence consent, or doesn't follow the conditions of a flood defence consent, the EA/NRW may remove, alter or pull down the work and recover their costs from the relevant person. (Section 109(4) Water Resources Act 1991).</p> <p>If any person carries out work without a byelaw consent, or doesn't follow the conditions of a byelaw consent, the EA/NRW may remedy the effects and recover their costs from the relevant person. (Section 211 Water Resources Act).</p>	<p>The EA/NRW may, after giving advance notice, take steps to remove, alter or pull down any unauthorised works and to remedy the effects caused by such an activity. The EA/NRW may recover any expenses incurred. The person to whom the notice is served can appeal against the notice. In emergency situations (e.g. to avoid danger to human health) EA/NRW is not required to give advance notice (schedule 23A, Part 1, paragraph 10 Ind. Regs).</p> <p>The EA/NRW may arrange for steps to be taken to prevent or remedy the effects of an authorised watercourse activity (standard provision – regulation 57 EPRs) if they consider the activity involves a;</p> <ul style="list-style-type: none"> • risk of serious flooding, • risk of serious detrimental impact on drainage, or a • risk of serious harm to the environment. <p>The EA/NRW must give at least 5 days' notice of its proposed steps (regulation 19 Ind. Regs).</p>

Current requirements	Proposed requirements
No similar provisions in current legislation	<p>The EA/NRW may serve those who contravene a permit condition with an enforcement notice requiring remediation within a specified period (standard provision - regulation 37 EPRs). The person served with the enforcement notice has a right of appeal. Enforcement notices may be enforced by the EA/NRW through the High Court (standard provision - regulation 42 EPRs).</p> <p>The EA/NRW may issue a suspension notice (standard provision –regulation 37, EPRs) which requires the suspension of a watercourse activity if the regulator considers that the works or activity presents a serious flood risk, serious impediment to drainage or serious harm to the environment. The person served with a suspension notice has a right of appeal. Suspension notices may be enforced by the EA/NRW through the High Court (standard provision –regulation 42 EPRs).</p> <p>The EA/NRW may issue a remediation notice in respect of unauthorised watercourse activities, The notice must require specified steps to be taken, set a time limit for doing so, and include information on the right of appeal. The notice must be served on the person responsible for the activity. If that person does not comply with the notice or it is not possible to serve a notice on that person, a notice may be served on any person who appears to have the necessary authority to take the steps specified in the notice (schedule 23A, Part 1, paragraph 9, Ind. Regs). Remediation notices may be enforced by the EA/NRW through the High Court (standard provision - regulation 42 EPRs).</p>
No similar provisions in current legislation	<p>The EA/NRW may issue an emergency works notice in an emergency situation. The notice may require any person responsible for a watercourse activity to remove, modify or undo any structure or activity, and may require the person hold a permit for the continuance of the activity (schedule 23A, Part 1, paragraph 8, Ind. Regs). There is a right of appeal against an emergency works notice. Emergency works notices may be enforced by the EA/NRW through the High Court (standard provision - regulation 42 EPRs).</p>

Offences and penalties

Current requirements	Proposed requirements
<p>It is an offence to act in contravention of any byelaw. Those who do so are liable, on summary conviction—</p> <ul style="list-style-type: none"> • to a fine not exceeding level 5 on the standard scale; and • if the contravention is continued after conviction, to a further fine not exceeding £40 for each day on which it is so continued. <p>(Section 211 Water Resources Act)</p>	<p>It is an offence to fail to carry out a watercourse activity without a permit, to fail to comply with a permit condition or to fail to comply with the requirements of an enforcement notice, a suspension notice (standard provisions – regulation 38 EPRs), an emergency works notice or a remediation notice. Those who do so in respect of watercourse activities are liable:</p> <ul style="list-style-type: none"> • on summary conviction to a fine not exceeding £20,000 or imprisonment for a term not exceeding 12 months, or to both; or • on conviction on indictment to a fine or imprisonment of a term not exceeding 2 years, or both. <p>(Regulations 16 and 17, Ind. Regs).</p>
<p>It is an offence for a person to knowingly or recklessly make false or misleading statements, or to intentionally falsify records. Those who do so are liable;</p> <p>on summary conviction to a fine not exceeding the statutory maximum; or</p> <p>on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both</p> <p>(section 206, Water Resources Act 1991).</p>	<p>It is an offence for a person to fail to comply with a notice requesting information, to knowingly make false or misleading statements, to intentionally falsify records, or to forge or use any relevant documents with intention to deceive. Those who do so are liable;</p> <p>on summary conviction to a fine not exceeding the statutory maximum; or</p> <p>on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both</p> <p>(standard provisions – regulation 38 EPRs).</p>

Miscellaneous

Current requirements	Proposed requirements
<p>Highway authorities or any other person wishing to undertake certain highways activities that impact on a main river must seek the permission of the EA/NRW. (Section 339 Highways Act 1980) This is a very similar requirement to section 109 Water Resources Act 1991, but with no fee or determination period.</p>	<p>Highways authorities must obtain an environmental permit prior to undertaking any watercourse activities (defined in Schedule 23A, paragraph 3 Ind. Regs), or the prior consent of the EA/NRW for activities that fall outside of an environmental permit schedule 2, Part 1, paragraphs 1 & 2, Ind. Regs).</p>
<p>EA/NRW may not issue consents that restrict the statutory rights or powers of protected undertakings. (Schedule 22, Water Resources Act 1991 and byelaw provisions)</p>	<p>EA/NRW may not carry out its permitting or related enforcement functions in a manner that is prejudicial to protected undertakings and must seek consent if it proposes to use the powers under Schedule 23A, Part 1, paragraph 10 to take steps to remove or remedy unauthorised works in such a way which would impact on a protected undertaking's land (schedule 23A, Part 1, paragraph 11, Ind. Regs).</p>

Annex – Draft Statutory Instrument

Draft Regulations laid before Parliament under section 45 of the Water Act 2014, for approval by resolution of each House of Parliament and the National Assembly for Wales.

DRAFT STATUTORY INSTRUMENTS

2015 No. XXXX

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Environmental Permitting (England and Wales) (Amendment) Regulations 2015

Made - - - - *XX March 2015*
Coming into force - - *1st April 2015*

These Regulations are made by the Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, in exercise of the powers conferred by section 44 of and Schedule 8 to the Water Act 2014⁽²⁾.

In accordance with section 44(5) of that 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 respectively as they consider appropriate;
- (d) such other bodies or persons as they consider appropriate.

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 45(4) of that Act.

Citation, commencement and extent

1. These Regulations—

- (a) may be cited as the Environmental Permitting (England and Wales) (Amendment) Regulations 2015;
- (b) come into force on 1st April 2015; and
- (c) extend to England and Wales only.

⁽²⁾

Amendments to the Environmental Permitting (England and Wales) Regulations 2010

2. The Environmental Permitting (England and Wales) Regulations 2010⁽³⁾ (“the Principal Regulations”) are amended in accordance with regulations 3 to 25.

Amendment of regulation 2 (interpretation: general)

3. In regulation 2(1)—

- (a) after the definition of “excluded waste operation”, insert—
““excluded watercourse activity” means a watercourse activity that meets the requirements of paragraph 4 of Schedule 23A.”;
- (b) after the definition of “exempt waste operation”, insert—
““exempt watercourse activity” has the meaning given in regulation 5.”;
- (c) after the definition of “stand-alone water discharge activity”, insert—
““stand-alone watercourse activity” means a watercourse activity that is not carried on as part of the operation of a regulated facility of another class.”;
- (d) after the definition of “water discharge activity”, insert—
““watercourse activity” has the meaning given in paragraph 3 of Schedule 23A;
“watercourse activity emergency works notice” means a notice served under paragraph 8 of Schedule 23A;
“watercourse activity notice of intent” means a notice served under paragraph 10 of Schedule 23A;
“watercourse activity remediation notice” means a notice served under paragraph 9 of Schedule 23A.”

Amendment of regulation 5 (interpretation: exempt facilities)

4. Regulation 5(1) is amended as follows—

- (a) in the definition of “exempt facility”—
 - (i) omit the “or” at sub-paragraph (b),
 - (ii) at the end of sub-paragraph (c), insert—
“, or
- (d) an exempt watercourse activity.”
- (b) after the definition of “exempt water discharge activity”, insert—
““exempt watercourse activity” means a watercourse activity that meets the requirements of paragraph 5A of Schedule 2.”.

Amendment of regulation 7 (interpretation: operate a regulated facility and operator)

5. In the definition of “operate a regulated facility” in regulation 7, for “or solvent emission activity”, substitute “, solvent emission activity or watercourse activity”.

Amendment of regulation 8 (interpretation: regulated facility and class of regulated facility)

6.—(1) At the end of regulation 8(1), insert —

“;

- (j) a watercourse activity”.

(2) At the end of regulation 8(2), insert—

“;

⁽³⁾ S.I. 2010/675.

(d) an excluded watercourse activity”.

(3) At the end of regulation 8(4), insert—

“;

(g) a watercourse activity”.

Amendment of regulation 9 (interpretation: relevant function)

7. At the end of regulation 9, insert—

“;

(g) exercising the power to serve a watercourse activity emergency works notice, a watercourse activity notice of intent or a watercourse activity remediation notice;

(h) exercising the power to take steps under paragraph 10(1) of Schedule 23A”.

Amendment of regulation 17 (single site permits etc)

8. In regulation 17, after paragraph (4), insert—

“(5) The regulator may authorise, under a single environmental permit, the operation by the same operator of more than one regulated facility that is a watercourse activity on the same site or on more than one site.”.

Amendment of regulation 20 (variation of an environmental permit)

9. In regulation 20, after paragraph (6), insert—

“(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 watercourse activity, the regulator must not, without the agreement of the operator, on its own initiative vary any condition of the permit that relates to the watercourse activity unless—

(a) the activity involves any construction or works and these have not yet been completed;

(b) the variation relates to aspects of the construction or works which have not yet been completed; and

(c) in the opinion of the regulator, the circumstances in which the activity is or is to be carried out have changed such that any of the objectives in paragraph 6 of Schedule 23A would no longer be met.

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

Amendment of regulation 21 (transfer of an environmental permit)

10. In regulation 21(3), after “carrying on of”, insert “a stand-alone watercourse activity”.

Amendment of regulation 24 (notification of surrender of an environmental permit)

11. At the end of regulation 24(1), insert—

“;

(d) a stand-alone watercourse activity”.

Amendment of regulation 31 (appeals to an appropriate authority)

12. In regulation 31(2)(f), for “or mining waste facility closure notice”, substitute “, mining waste facility closure notice, watercourse activity emergency works notice, watercourse activity notice of intent or watercourse activity remediation notice”.

Amendment of regulation 35 (specific provisions applying to environmental permits)

13.—(1) In regulation 35(1), for “23”, substitute “23A”.

(2) At the end of regulation 35(2), insert—

“;

(r) Schedule 23A (watercourse activities)”.

Amendment of regulation 36 (enforcement notices)

14.—(1) In regulation 36(3)(b), for “effects of pollution”, substitute “environmental effects”.

(2) After regulation 36(3), insert—

“(3A) In paragraph (3)(b), “environmental effects” has the meaning given in paragraph (3B).

(3B) In this regulation—

- (a) in relation to a watercourse activity, “environmental effects” means—
 - (i) flooding or risk of flooding,
 - (ii) harm to the environment or risk of harm to the environment,
 - (iii) detrimental impact on drainage or risk of detrimental impact on drainage;
- (b) in relation to any other class of regulated facility, “environmental effects” means the effects of pollution.”.

Amendment of regulation 37 (suspension notices)

15.—(1) In regulation 37(2), after “risk of serious pollution”, insert “or in the case of a watercourse activity, a risk specified in paragraph (2A)”.

(2) After regulation 37(2), insert—

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

- (a) risk of serious flooding,
- (b) risk of serious detrimental impact on drainage,
- (c) risk of serious harm to the environment.”.

(3) In regulation 37(4)(a)(i), after “that paragraph”, insert “or the risk specified in paragraph (2A), as the case may be”.

Amendment of regulation 38 (offences)

16. In regulation 38(3), for “or mining waste facility closure notice”, substitute “, mining waste facility closure notice, watercourse activity emergency works notice or watercourse activity remediation notice”.

Amendment of regulation 39 (penalties)

17.—(1) In regulation 39(1), for “A person”, substitute “Subject to paragraph (1A), a person”.

(2) After regulation 39(1), insert—

“(1A) A person guilty of offence under regulation 38(1), (2) or (3) in respect of a watercourse activity is liable—

- (a) on summary conviction to a fine not exceeding £20,000 or imprisonment for a term not exceeding 12 months, or to both;
- (b) on conviction on indictment to a fine or imprisonment of a term not exceeding 2 years, or both.”.

(3) In regulation 39(2), for “paragraph (1)(a) has”, substitute “paragraphs (1)(a) and (1A)(a) have”.

Amendment of regulation 42 (enforcement by the High Court)

18. In regulation 42, for “or mining waste facility closure notice”, substitute “, mining waste facility closure notice, watercourse activity emergency works notice or watercourse activity remediation notice”.

Insertion of regulation 57A

19. After regulation 57, insert—

“Power of the regulator to prevent or remedy effects of watercourse activities

57A.—(1) If the regulator considers that the carrying on of a watercourse 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) The regulator may arrange for steps to be taken to remedy an adverse effect of a watercourse activity if—

- (a) the commission of an offence under regulation 38(2) or (3) causes the adverse effect; or
- (b) the regulator suspects that such an offence is being or has been committed and the adverse effect is being or has been caused as a result.

(4) For the purposes of paragraph (3), “adverse effect of a watercourse activity” means—

- (a) flooding,
- (b) detrimental impact on drainage,
- (c) harm to the environment.

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

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

(7) But costs are not recoverable under paragraph (6)—

- (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 the operator shows that the costs were unnecessarily incurred by the regulator.”,

Amendment of Schedule 2 (exempt facilities: general)

20. Schedule 2 is amended as follows—

(a) in the definition of “registered” in paragraph 1, after “in relation to” in sub-paragraph (b), insert “a watercourse activity”;

(b) after paragraph 2(5), insert—

“(6) The exemption registration authority in relation to a watercourse activity falling within a description in Part 4 of Schedule 3 is the appropriate agency.”.

(c) after paragraph 5, insert—

“Exempt watercourse activities

5A. For the purposes of the definition of “exempt watercourse activity”, the requirements are—

(a) that a watercourse activity—

- (i) falls within a description in Part 4 of Schedule 3, and
- (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in Part 4 of that Schedule;

(b) that—

- (i) the watercourse activity is registered, and
- (ii) the operator is registered in relation to it.”.

(d) after paragraph 6(2) insert—

“(2A) An operator seeking to be registered in relation to a watercourse activity described in Part 4 of Schedule 3 must notify the exemption registration authority of the relevant particulars.”.

- (e) in paragraph 6(3)(a)(ii), after “water discharge activity”, insert “, watercourse activity”.
- (f) in paragraphs 6(3)(b) and 6(3)(c), after “water discharge activity”, insert “, watercourse activity”.
- (g) in paragraph 7(2)(b), after “exempt water discharge activity”, insert “, exempt watercourse activity”.
- (h) in paragraph 7(3)(b), after “exempt water discharge activities”, insert “, exempt watercourse activities”.

Amendment of Schedule 3 (exempt facilities: descriptions and conditions)

21. After Part 3 of Schedule 3, insert—

“PART 4

Exempt watercourse activities: descriptions and conditions

SECTION 1

1. The descriptions in this Part are set out in the first sub-paragraphs of paragraphs 5 to x.
2. The specific conditions for each description in this Part are set out in the second sub-paragraphs of paragraphs 5 to x.
3. The general conditions for all descriptions in this Part are as follows—
 - (a) the activity is not carried out on a designated site or SSSI;
 - (b) the activity is not carried out on a main river that is classified as high status by the regulator in accordance with the relevant directions.
- 4.—(1) For the purposes of paragraph 3(a)—

“designated site” means—

 - (a) a special area of conservation designated as such under the Conservation of Habitats and Species Regulations 2010⁽⁴⁾ (“the Habitats Regulations);
 - (b) a special protection area designated as such under the Habitats Regulations;
 - (c) a Ramsar site within the meaning of section 37A of the Wildlife and Countryside Act 1981⁽⁵⁾ (“the 1981 Act”);
 - (d) “SSSI” means a site of special scientific interest designated as such under the 1981 Act.

(2) For the purposes of paragraph 3(b), “relevant directions” means—

 - (a) the River Basin Districts Surface Water and Groundwater Classification (Water Framework Directive) (England and Wales) Direction 2009⁽⁶⁾; and
 - (b) the River Basin Districts Typology, Standards and Groundwater Threshold Values (Water Framework Directive) (England and Wales) Direction 2010⁽⁷⁾.
- 5.—(1) The erection and use of temporary scaffolding.
- (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 does not affect more than 10 metres of a river bank at any one time;

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- (c) the scaffolding projects no more than 1.2 metres or no more than 25% of the width of the watercourse, whichever is less;
- (d) any transoms and walking decks are set no lower than 600 millimetres above normal water level.”.

Amendment of Schedule 5 (environmental permits)

22. Schedule 5 is amended as follows—

- (a) at the end of paragraph 5(1), insert—
“; or
(e) a stand-alone watercourse activity only”.
- (b) at the end of paragraph 5(4), insert—
“; or
(e) a watercourse activity only”.
- (c) in paragraph 13(3), for after “stand-alone water discharge activity”, insert “, stand-alone watercourse activity”.
- (d) in paragraph 14(1)(a), after “facility” insert “and, in the case of a permit authorising the carrying on of a watercourse activity (in whole or in part), to avoid the risks specified in sub-paragraph (3)”.
- (e) after paragraph 14(2), insert—
“(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.”.
- (f) after paragraph 15(3)(a), insert—
“(aa) in the case of an application relating to a stand-alone watercourse activity only, 2 months;”.

Amendment of Schedule 6 (appeals)

23. In paragraph 3(1)(c) of Schedule 6, for “or landfill closure notice”, substitute “, landfill closure notice, watercourse activity emergency works notice, watercourse activity notice of intent or watercourse activity remediation notice”.

Amendment of Schedule 24 (public registers)

24. Schedule 24 is amended as follows—

- (a) in paragraph 1(1), for “A public register”, substitute “Subject to sub-paragraph (1A), a public register”.
- (b) after paragraph 1(1), insert—
“(1A) The requirements in sub-paragraph (1) do not apply to the extent that they would, but for the effect of this sub-paragraph, require matters to be included in a public register that relate to a stand-alone watercourse activity.”.

Insertion of new Schedule 23A (watercourse activities)

25. After Schedule 23, insert Schedule 23A as set out in Schedule 1 to these Regulations.

Consequential amendments

26. Schedule 2 (consequential amendments) has effect.

Repeals

27. The enactments in Schedule 3 (repeals) are repealed to the extent specified.

Transitional provision: existing consents

28.—(1) On the coming into force of these Regulations and subject to paragraph (2), an existing consent relating to a watercourse activity (as defined in the Principal Regulations)—

- (a) becomes an environmental permit under the Principal Regulations, and
- (b) that permit has effect subject to any conditions that applied to the existing consent immediately before the coming into force of these Regulations.

(2) Where an existing consent relates to an excluded or exempt watercourse activity (as defined in the Principal Regulations), the existing consent ceases to have effect on the coming into force of these Regulations.

(3) For the purposes of this regulation “existing consent” means a consent issued under section 109 of the 1991 Act⁽⁸⁾ or under any byelaw made by the regulator under section 210(1) of and paragraph 5 of Schedule 25 to that Act in force immediately before the coming into force of these Regulations.

Transitional provision: applications for consent under the 1991 Act

29.—(1) Where an existing application in respect of a watercourse activity (as defined in the Principal Regulations) is not determined under the 1991 Act before the coming into force of these Regulations and the activity is not an exempt or excluded watercourse (as defined in the Principal Regulations), the application is taken to be made under the Principal Regulations and paragraphs (2) and (3) apply in respect of the application.

(2) The application is taken to be made on the date the application was made under the 1991 Act.

(3) Anything done under the 1991 Act in relation to the determination of the application before the coming into force of these Regulations is taken to be done under the Principal Regulations.

(4) Where an existing application in respect of a watercourse activity (as defined in the Principal Regulations) is not determined under the 1991 Act and the activity is an exempt or excluded watercourse activity (as defined in the Principal Regulations), the application ceases to have any effect on the coming into force of these Regulations.

(5) For the purposes of this regulation, an “existing application” means an application for consent made before the coming into force of these Regulations under section 109 of the 1991 Act.

Transitional provision: existing notices

30.—(1) On the coming into force of these Regulations, an existing notice served under a repealed byelaw is taken to be an enforcement notice under the Principal Regulations.

(2) For the purposes of paragraph (1), “repealed byelaw” means a byelaw—

- (a) made by the regulator under section 210(1) of and paragraph 5 of Schedule 25 to the 1991 Act; and
- (b) whose provisions are repealed and replaced by provisions in these Regulations.

Name

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

Date

⁽⁸⁾

PART 1

Watercourse activities

Application

31. This Schedule applies in relation to every watercourse activity.

Interpretation

32. In this Schedule—

“application” has the meaning given in paragraph 1 of Schedule 5;

“bank” means a bank, berm, wall or embankment adjoining or confining, or constructed for the purposes of preventing or alleviating flooding from or in connection with any watercourse and, in the case of—

- (a) a watercourse in which tidal waters flow, includes all land between the bank and the mean low-watermark and any embankment constructed or maintained by the regulator in the sea or an estuary for the purposes of or in connection with a river; or
- (b) any other watercourse, includes all land between the bank and the level of water therein from time to time;

“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;

“drainage” has the meaning given in section 113(1) of the 1991 Act and “drainage work” is to be construed accordingly;

“dredging” means the dredging, raising or taking or causing to be dredged, raised or taken of any sand, silt, ballast, clay or other materials from the bed or bank of a main river;

“emergency” means an occurrence which presents a risk of—

- (c) serious flooding,
- (d) serious impediment to drainage,
- (e) serious harm to the environment;

“emergency situation” means a situation where an emergency has occurred, is occurring or is about to occur;

“flood defence structure” means any permanent works constructed or maintained by the regulator for the purposes of managing flood risk;

“harbour authority” has the meaning given in section 313 of the Merchant Shipping Act 1995⁽⁹⁾ and who is not a navigation authority;

“land” includes—

- (f) water,
- (g) land covered by water,
- (h) any interests in land or water,
- (i) any easement or right in, to or over land or water;

“main river” has the meaning given in section 113(1) of the 1991 Act;

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“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;
“planning permission” means planning permission under the Town and Country Planning Act 1990⁽¹⁰⁾ and includes—

- (a) a certificate under section 191 of that Act; and
- (b) an established use certificate under section 192 of that Act, as originally enacted, which continues to have effect for the purposes of sub section (4) of that section;

“sea bank” means a wall or embankment constructed for the purpose of preventing tidal or sea water from ~~inundating land~~, not being waters in a river;

“sea defence” includes any wall, bank, embankment (including any berm, counterwall or cross-wall connected thereto), ~~barrier~~, tidal sluice or other defences whether natural or artificial against the inundation of land by sea water or tidal water, not being waters in a river, (including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the regulator’s area against flooding) but excluding 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⁽¹¹⁾ or by any local authority or any navigation, harbour or conservancy authority;

“unauthorised watercourse activity” means a watercourse activity which is not authorised by an environmental permit but excluding any exempt or excluded watercourse activities;

“watercourse” has the meaning given in section 221 of the 1991 Act, as read with section 113(1) of that Act;

“8 metre zone” means a zone measured 8 metres horizontally from—

- (a) the foot of a bank on the landward side of the bank, or
- (b) the foot on any flood defence structure or wall.

“16 metre zone” means a zone measured 16 metres horizontally from—

- (a) the foot of a bank on the landward side of the bank, or
- (b) the foot on any flood defence structure or wall.

Meaning of “watercourse activity”

33. A “watercourse activity” means—

- (a) erecting any structure (whether temporary or permanent) in, over or under a watercourse which is part of 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 watercourse which is part of a main river if the work is likely to affect the flow of water in the watercourse or to impact on 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;
- (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 an 8 metre zone of a non-tidal main river which is likely to—
 - (i) cause damage to or endanger the stability of any bank,
 - (ii) impede drainage of the river,
 - (iii) interfere with the regulator’s access to and along the river;
- (g) any activity within a 16 metre zone of a tidal main river which is likely to—
 - (i) cause damage to or endanger the stability of any bank,

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- (ii) impede drainage of the river,
- (iii) interfere with a regulator's access to and along the river;
- (h) any activity on a flood plain outside an 8 metre zone of a non-tidal main river or a 16 metre zone of a tidal main river which is likely to divert or obstruct the flow of flood water or to impede drainage but excluding any activity that has been granted planning permission;
- (i) any activity which is likely to—
 - (i) endanger the stability of, cause damage to or reduce the effectiveness of sea defences, or,
 - (ii) interfere with the regulator's access to and along sea defences.

Excluded watercourse activities

34. For the purposes of the definition of “excluded watercourse activity”, the requirements are that the watercourse activity—

- (a) falls within a description in Part 2 of this Schedule;
- (b) satisfies the conditions specified in Part 2 of this Schedule for an activity of that description.

Consultation with relevant authorities

35.—(1) Where the regulator receives an application which it considers is likely to affect the interests of a conservancy authority, a harbour authority or a navigation authority, the regulator must invite the authority to make representations on the application.

(2) Before it determines the application, the regulator must consider any representations made by the authority.

Exercise of relevant functions

36. The regulator must exercise its relevant functions for the purposes of achieving the following objectives—

- (a) managing flood risk;
- (b) securing the drainage of land;
- (c) environmental protection.

Conditions for operation and maintenance of structures and works

37. 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 conditions relating to—

- (a) the operation and maintenance of any structure or works as the regulator considers to be necessary to secure the drainage of land or the management of flood risk;
- (b) access by the regulator to any structure or works, including access to any surrounding land where this is necessary to access the structure or works.

Emergency works notice

38.—(1) In an emergency situation, the regulator may serve an emergency works notice on any person responsible for a watercourse activity (“A”).

(2) An emergency works notice may be served whether or not the activity is an excluded or an exempt watercourse activity.

(3) An emergency works notice may require A to—

- (a) remove any specified structure in accordance with requirements set out in the notice;
- (b) modify any specified structure in accordance with requirements set out in the notice;
- (c) carry on the activity in accordance with requirements set out in the notice;
- (d) remedy the effects caused by the activity in accordance with requirements set out in the notice;
- (e) hold an environmental permit authorising the carrying on of the activity but not where 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(2)(f).

Remediation notice

39.—(1) Where the regulator considers that an unauthorised watercourse activity is being or has been carried on, the regulator may serve a remediation notice on the person responsible for the unauthorised watercourse 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(2)(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 or remedy detrimental impact on drainage;
- (d) to remedy harm to the environment;
- (e) to restore the watercourse to its prior condition or a condition otherwise specified in the notice.

(4) Where 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 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 but the references in those paragraphs to “A” shall be read shall be as references to the person on whom a notice under sub-paragraph (4) is served.

Regulators’ power to take steps to remove and remedy etc

40.—(1) Subject to sub-paragraphs (2) and (3) and paragraph 11(4), the regulator may take steps to—

- (a) remove, alter or pull down any works carried out pursuant to an unauthorised watercourse activity;
- (b) remedy the effects caused by an unauthorised watercourse activity.

(2) Before taking any steps under sub-paragraph (1) and subject to sub-paragraphs (3) and (5), the regulator must serve a notice of intent on the person responsible for the unauthorised watercourse 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 situation; or
- (b) cannot determine who is the person responsible for the unauthorised watercourse activity.

(4) A notice of intent must specify—

- (a) 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(2)(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 appears to the regulator may be affected by the steps the regulator intends to take.

(6) Where a notice is served under sub-paragraph (5), the reference in sub-paragraph (4)(c) to “A” shall be read shall be as 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).

Protected undertakings, railways and bridges

41.—(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 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) Where the regulator is proposing to take steps under paragraph 10(1) and such steps will directly or indirectly interfere with works or property under the control of or vested in a person carrying on a protected undertaking or the use of such works and the interference will injuriously affect those works, that property or the carrying on of a protected undertaking, the regulator must obtain the prior consent of the person carrying on the protected undertaking.

(5) Where consent is required under sub-paragraph (4), the consent may be subject to reasonable conditions but it must not be unreasonably withheld.

(6) Nothing in this Schedule shall be taken to affect any enactment requiring the consent of any government department or Minister for the erection of a bridge or any powers exercisable by any government department or Minister in relation to a bridge.

PART 2

Excluded watercourse activities

SECTION 1

Introductory

42. The descriptions in this Part are set out in the first sub-paragraphs of paragraphs 5 to 11.

43. The specific conditions for each description in this Part are set out in the second sub-paragraphs of paragraphs 5 to 11.

44. The general conditions for the descriptions in paragraphs 7 to 11 of this Part are as follows—

- (a) the activity is not carried out on a designated site or an SSSI;
- (b) the activity is not carried out on a main river that is classified as high status by the regulator in accordance with the relevant directions.

45.—(1) For the purposes of paragraph 3(a)—

“designated site” means—

- (a) a special area of conservation designated as such under the under the Conservation of Habitats and Species Regulations 2010⁽¹²⁾ (“the Habitats Regulations);
- (b) a special protection area designated as such under the Habitats Regulations;
- (c) a Ramsar site within the meaning of section 37A of the Wildlife and Countryside Act 1981⁽¹³⁾ (“the 1981 Act”);
- (d) “SSSI” means a site of special scientific interest designated as such under the 1981 Act.

(2) For the purposes of paragraph 3(b), “relevant directions” means—

- (a) the River Basin Districts Surface Water and Groundwater Classification (Water Framework Directive) (England and Wales) Direction 2009⁽¹⁴⁾; and

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- (b) the River Basin Districts Typology, Standards and Groundwater threshold values (Water Framework Directive) (England and Wales) Direction 2010⁽¹⁵⁾.

SECTION 2

Descriptions and conditions

- 46.**—(1) Any activity carried on in an emergency.
- (2) For the purposes of this paragraph, the specific conditions are that—
- the activity is not a pre-planned emergency activity; and
 - 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 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.
- 47.**—(1) A licensable marine activity.
- (2) For the purposes of this paragraph, the specific conditions are that—
- the operator has made an application for a marine licence;
 - the operator has notified the regulator of its application;
 - the regulator considers that, in view of the terms and conditions that will be included in the marine licence, an environmental permit is not necessary; and
 - the regulator issues a notice to that effect to the operator.
- (3) For the purposes of this paragraph, “licensable marine activity” and “marine licence” have the same meaning as in Part 4 of the Marine and Coastal Access Act 2009⁽¹⁶⁾.
- 48.**—(1) The erection and use of ladders and scaffold towers (“equipment”).
- (2) For the purposes of this paragraph, the specific conditions are—
- the suitability of river conditions are reviewed by the operator each working day;
 - the equipment is erected on each working day that it is required; and
 - the equipment is removed at the end of each working day and is stored outside the river or its banks.
- 49.**—(1) The construction and use of service crossings within an existing structure.
- (2) For the purposes of this paragraph, the specific condition is that the crossing is entirely within the original profile of the existing structure.
- 50.**—(1) Agricultural fencing within an 8 metre zone of a non-tidal main river or a 16 metre zone of a tidal main river.
- (2) For the purposes of this paragraph, the specific conditions are—
- the fencing does not exceed 1.2 metres in height; and
 - the fencing is constructed of—
 - post and rail,
 - wire mesh with greater than 100 millimetres spacing, or
 - wire strands.
- 51.**—(1) Maintaining existing structures by painting or repointing but excluding associated access or use of scaffolding (“maintenance works”).
- (2) For the purposes of this paragraph, the specific conditions are that the maintenance works—
- do not alter the dimension of the structure; and
 - do not represent repair or reinstatement of failed structures; and

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(c) include the removal of any rubbish and debris from the structures.

52.—(1) Constructing a cattle drinking bay (“bay”).

(2) For the purposes of this paragraph, the specific conditions are that—

- (a) the bay shall not be within 100 metres of any other man-made structure;
- (b) the bay shall not be located on a watercourse bend;
- (c) the bay shall be surrounded by a post and rail fence which should project no more than 1.2 metres or 10% of the channel, whichever is less;
- (d) the base of the bay has a surface made of concrete, stone or inert hard core; and
- (e) the remainder of the bank is fenced so as to prevent damage.

SCHEDULE 2

Regulation 26

Consequential amendments

PART 1

Public General Acts

Highways Act 1980

53.—(1) Section 339 of the Highways Act 1980 is amended as follows.

(2) For sub section (1), substitute—

“(1A) Sub section (1) does not apply where an environmental permit is required for the use of or interference with any watercourse or drainage or other works as described in that sub-section.

(1B) For the purposes of sub section (1A), an environmental permit means an environmental permit under the Environmental Permitting (England and Wales) Regulations 2010.”.

Environment Act 1995

54.—(1) The Environment Act 1995⁽¹⁷⁾ is amended as follows.

(2) For paragraph (aa) in the definition of “environmental licence” in section 56(1) of that Act, substitute—

“(aa) a permit granted by the appropriate agency under regulations under—

- (i) section 2 of the Pollution Prevention and Control Act 1999, other than regulations made for the purpose of implementing the EU ETS Directive;
- (ii) section 44 of the Water Act 2014.”

PART 2

Subordinate legislation

SCHEDULE 3

Repeals

(3) Sections 109 and 110 of and paragraphs 5(3A) and 5(3B) of Schedule 25 to the Water Resources Act 1991 are repealed.

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