



Defence  
Safety Authority

# DSA02-DEPR: Defence Environmental Protection Regulations



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Defence Safety Authority  
Defence Environmental Protection Regulations  
Version 1.0  
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# Amendment record

To check the latest amendment status, reference should be made to current documents which may be viewed on Gov.uk or on the Defence Intranet.

Version Record Table

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1.0	26 March 2024	Original version - document created

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# Foreword



The Defence Safety Authority (DSA) established the Defence Environmental Protection Regulator (DEPR) in response to identifying an ongoing gap in the DSA Charter. Defence must comply with environmental laws, Ministry of Defence (MOD) environmental protection policy, and Defence regulation as this is fundamental to maintaining the quality of the natural environment, in securing Defence operational capability, and upholding Defence reputation.

The Defence regulations set out in this document are the minimum standards to be adopted for environmental protection across the MOD's portfolio. They are mandatory and full compliance is required.

It is the responsibility of Accountable Person(s) within the scope of these regulations to ensure that personnel, including contractors, involved in the conduct of Defence activities are fully aware of their responsibilities.

The DEPR seeks to bring more coherence and coordination to environmental protection reporting across Defence and to provide a more joined up picture of how Defence is meeting environmental protection laws, policies, and regulations. The DEPR operates within the third line of Defence, through the activities of assurance, Defence regulation, enforcement, and coordination of environmental protection information. Key to success is the continued development of an engaged and prioritised 'environmental culture' across Defence.

Dr Cindy Levy

Defence Environmental Protection Regulator Team Leader

Defence Safety Authority

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# Introduction

1. The Secretary of State (SofS) for Defence Policy Statement on Health, Safety and Environment (HSE) in Defence requires all Ministry of Defence (MOD) activities to comply with all applicable environmental protection legislation or achieve equivalent outcomes to statutory legislation.
2. The SofS Policy Statement requires the Director General of the Defence Safety Authority (DG DSA) “to lead an Enabling Organisation to provide assurance that [the HSE] policy is being promulgated and implemented in the conduct of Defence activities”. The DG DSA gives authority to the Defence Environmental Protection Regulator (DEPR) to regulate environmental protection across the MOD’s portfolio, covering the Defence Estate, equipment, and activities.
3. The Defence HSE Policy Statement can be read on the [Government website](#).

## Purpose of this document

4. The purpose of this document is to set out environmental protection regulations which apply across all aspects of Defence. The regulations in this document aim to ensure that Defence is committed to protecting the environment, as set out in the Defence SofS HSE Policy Statement.

## Authority

5. The Defence Safety Authority (DSA) is established by a Defence SofS Charter empowering it as “the independent regulator, investigator and assurer for Health, Safety and Environmental Protection within Defence”. The DG DSA is authorised by the Defence SofS HSE Policy Statement, and under the DSA Charter to regulate, assure and enforce Defence regulations. The DSA is responsible for setting Defence regulations for appropriate and defined domain and function areas.
6. The DEPR is an independent Defence regulator, working together with DSA’s other regulators, to deliver a coordinated focus on environmental protection within the DSA.
7. The DSA Charter is available to view on the [Government website](#).

## DSA Documentation

8. The DSA has three levels of documentation which provide guidance on how to achieve its responsibilities:
  - level 1 (DSA01) which includes a guidance series that sets out how the DSA will investigate, analyse, regulate, assure, and enforce;
  - level 2 (DSA02) which are Defence regulations set by the different DSA regulators, DSA02-DEPR signifies the regulations set by the DEPR; and

- level 3 (DSA03) which are regulatory guidance documents which support DSA02 regulations, DSA03-DEPR supports DSA02-DEPR.

9. The DSA01 series have been used to guide the creation of the documents from the DEPR.

### **The DEPR regulatory responsibilities**

10. DSA regulators can set Defence regulations for any of the ‘five reasons to regulate’ as explained in the DSA01.1. The five reasons to regulate include where:

- a derogation, an exemption, or a dis-application (collectively known as DEDs) applies;
- the DSA regulator has a delegation from the statutory regulator or is directed by authorised local authorities;
- the Directorate of Levelling up, Union, Climate Change and Sustainability (LUCCS) or a Defence Organisation has requested, and the DSA has accepted, that an area of Defence activity is not sufficiently regulated;
- there is a gap in UK legislation that needs to be filled when considering Defence activity or following lessons identified; or
- for activities that are considered as high risk, Defence Organisations, via the Defence Safety and Environment Committee (DSEC) have decided that the legislation does not provide enough regulation for specific military activities.

11. The DSA01.1 is available to view on the [Government website](#).

### **The DEPR regulations**

12. The DEPR regulations currently consist of two distinct types, those that are strategic in nature and those that are specific to legal compliance gaps. The strategic regulations cover the arrangements that Defence Organisations should have in place across all Defence activities to implement environmental protection. These strategic regulations compliment Defence environmental protection policy and were identified as essential factors in driving compliance and addressing Defence risk. The DEPR regulations specific to legal compliance gaps are directly linked to a dis-application, exemption, or derogation (DED) for Defence or military activity within the statute. Although the law provides a DED, Defence is still required to follow the original aim of the legislation, to the extent that is reasonably practicable to do so, to achieve equivalent outcomes in accordance with the Defence SofS HSE Policy Statement. The DEPR regulations set the required outcomes for Defence where there is provision for a DED in statutory legislation related to environmental protection.



## Dis-applications, exemptions, and derogations (DEDs)

13. Where legal requirements have the potential to adversely impact Defence operations there are occasionally provisions that allow Defence to deviate, either partially or fully, from statutory legislation compliance. The following definitions are provided to aid understanding of DEDs in an environmental context:
- dis-applications are where all or part of specific legislation does not apply to Defence (e.g., Environmental Protection Act 1990);
  - exemptions are clauses written into legislation that enables the SofS to grant, via formal written authorisation, that all or a part of specific legislation does not apply under certain conditions in recognition of a Defence imperative (e.g., The Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Enforcement Regulations 2008). Exemptions generally require a robust evidence case to be presented for application on a case-by-case basis, and often with a Defence regulator oversight (such as the DEPR) before Ministerial approval. Exemptions are usually temporary and subject to specific conditions; and
  - derogations are a relaxation of a statutory requirement written into legislation to allow the law to be applied differently for justifiable, practical, or operational reasons (e.g., The Ozone-Depleting Substances Regulations 2015).

## The Environment Act 2021

14. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance. The Act places a duty on Crown Ministers to consider the environment by paying due regard to five environmental principles in all Governmental policy. Defence has a dis-application from the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes. The principles which should be embedded into all Defence activities are:
- the integration principle (policymakers should look for opportunities to embed environmental protection and/or enhancement across all types of policy);
  - the prevention principle (prevention of environmental harm);
  - the rectification at source principle (environmental damage should, as a priority, be addressed at its origin to avoid the need to remedy its effects later);
  - the polluter pays principle (where possible, the costs of pollution should be borne by those causing it); and
  - the precautionary principle (assists the decision-making process to prevent environmental damage where there is a lack of scientific certainty. A lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation).
15. The environmental principles policy statement can be read in full on the [Government website](#).



16. Any conflicts between legislation and the regulations contained in this document should be brought to the attention of the DEPR.

## Regulations scope

17. Unless specified, the regulations contained in this document apply to all of Defence, to the people and organisations that enable, manage and conduct:
  - the Defence Estate and its environmental management;
  - Defence equipment or systems for the benefit of the MOD and their appropriate environmental standards; and
  - Defence activities operating with sound environmental practices (often also with Defence equipment, and on the Defence Estate).
18. The DEPR regulations are addressed to an 'Accountable Person'. All Defence Organisations conducting any Defence activities should identify the personnel who are accountable for compliance with the regulations detailed in this document<sup>1</sup>. While it is the responsibility of everyone to comply with legislation, Accountable Persons are required to provide evidence of compliance (on behalf of the SofS), for a capability or specified area of responsibility.
19. Where any part of the MOD's duties are discharged through contractors, this does not in any way diminish the ultimate accountability and responsibility of MOD officials for Defence activities. There should be a clear chain of command management of delegation to suitably competent personnel who are accountable for demonstrating that the requirements of these Defence regulations are met.
20. Only the DEPR will enforce compliance of the Defence regulations contained in this document through independent assurance (third line of defence (3LOD)). Any absence of 3LOD activity by the DEPR does not absolve any Accountable Person(s) of their duty to supply suitable and sufficient evidence of compliance with the DEPR regulations when asked.

## The DEPR and other DSA regulators

21. As environmental protection legislation is broad across all Defence activities, the DEPR is not the only DSA Defence regulator to produce environmental protection regulations. However, the DEPR works at a strategic level to cover all aspects of Defence, whereas other DSA regulators operate at a specific domain or technical level. Whilst there may be environmental topic connection between the DEPR and other DSA regulators, the differing approaches should ensure that duplication does not occur.
22. The DEPR will act as the front-door for the DSA in strategic and cross-cutting environmental protection queries and refer out to other DSA regulators as relevant.

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<sup>1</sup> DEPR's Accountable Person definition is consistent with the Defence Maritime Regulator Document - DMR03: Regulatory Terms and Definitions (version 3, 2022) which can be found on [DMR's website](#)

Specific technical domain or function queries on environmental protection should be directed to the relevant DSA regulator.

### The DEPR waivers

23. There may be occasions when the Regulated Community is unable to comply with all or a part of a specific DEPR regulation. In such circumstances, a temporary regulatory waiver (written authorisation) is required.
24. Approval of a DEPR waiver does not constitute the DEPR's acceptance of the environmental protection risk and impact. The ownership of risks remains with the Accountable Person(s).

### Regulations format

25. The DEPR regulations have been written to align with the DSA01.1 standard for writing Defence regulations. There are two key definitions applied:
  - **shall** describes activities that are mandatory under regulation; and
  - *should* describes activities that, if demonstrated, is an acceptable means of compliance.
26. Each regulation is comprised of the following parts:
  - regulation, which sets out the authoritative direction (compliance with a Defence regulation is mandatory);
  - provenance, which describes where the requirements for the Defence regulation originate, or where it connects to Defence policy;
  - justification, which explains the reason why the Defence regulation is necessary; and
  - acceptable means of compliance, which provides key criteria to achieve compliance with the associated regulation (although alternative approaches which have the same outcome may be implemented).

### Regulations navigation

27. The DEPR regulations in this document have been grouped into series which focus on different environmental protection themes. The current DEPR series are numbered 100 to 400, as below:
  - 100 Series: Strategic framework;
  - 200 Series: Environmental disturbance;
  - 300 Series: Chemicals, hazardous substances, and hazardous materials; and
  - 400 Series: Waste management.

28. Each regulation has a three-digit number, the first digit is derived from the series number. There is scope to further expand the series to include more themes over time.

### **Guidance material**

29. Guidance material is provided in a separate document, DSA03-DEPR. The guidance material illustrates the meaning of any specifications, standards, and provides additional explanation and good practice to assist with compliance of the regulations. Where appropriate, templates are also provided to allow for standard procedures across the Defence community.

### **Requests for change**

30. Proposals for change to these DSA02-DEPR regulations should be submitted through a change request form. To be redirected to our change request form, [click here](#). The form can also be found on the DEPR intranet page (Defnet). If you have any questions about these DEPR regulations, please email DSA-DEPR-GROUP@mod.gov.uk.

# 100 Series: Strategic framework

1. The regulations in this series cover the arrangements that each MOD organisation should have in place to be able to have considered the environment across all Defence activities and achieve the Defence commitment to protect the environment.
2. The requirements for the regulations in this series complement Defence policy which set out the arrangements and framework for inclusion of environmental protection management across all areas of Defence, including the Defence SofS Policy Statement on HSE and Joint Services Publication (JSP) 816.
3. The required outcomes of the regulations in this series also aim to achieve equivalent outcomes to the Environment Act 2021, which place a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.
4. All the Environment Act principles are relevant to the strategic regulations, but of particular relevance is the integration principle. For example, environment should be integrated throughout all MOD activities, at all levels of operation. This will ensure that the correct consideration, and working practices for the environment are implemented across the Department, whilst also developing a robust environmental culture. Which should result in better environmental outcomes for all MOD activities.

## 101: Accountable Person

### Regulation

1. Each MOD organisation engaged in MOD activity **shall** have identified the Accountable Person(s) responsible for identifying, implementing, and overseeing the environmental management arrangements for all activities within their area of responsibility.

### Provenance

2. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.
3. Policy Statement by the Secretary of State for Defence on Health, Safety and Environment in Defence (January 2024). The high-level policy and governance statement that sets out the Departmental requirement for Health, Safety and Environment.
4. MOD JSP 816. The MOD's policy, which sets out the framework for inclusion of environmental protection management in all aspects of the work the Department undertakes.

### Justification

5. This regulation has been created to reflect the risk and impact Defence activities may have on the environment, and the need for awareness and management of these risks and impacts within Defence.
6. Ownership and oversight of risks and impacts Defence activities may have on the environment is fundamental across Defence to ensure legal compliance and to prevent an environmental disaster. Failure to generate an awareness of risks and impacts to the environment and inaction to take responsibility for it, could lead to statutory legislation not being followed, or equivalent outcomes to statutory legislation not being met, resulting in physical environmental damage, operational restrictions, reputational damage for the MOD, or significant financial burden.

### Acceptable means of compliance

7. Each organisation *should* clearly identify and record who holds accountability for environmental risks and impacts within a Defence Organisation. For example, in an 'organisation and arrangements' document.
8. Accountable Person(s) *should* hold documented evidence of their delegated authority, accountability, and responsibility.
9. There *should* be current and agreed terms of reference for all personnel who manage, perform, and verify work relating to or impacting environmental management within the jurisdiction of these regulations.

## 102: Effective environmental management arrangements

### Regulation

1. All Accountable Person(s) **shall** demonstrate that their management arrangements are suitable and sufficient for the effective delivery of their environmental responsibilities and that they are being complied with.

### Provenance

2. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.
3. Policy Statement by the Secretary of State for Defence on Health, Safety and Environment in Defence (January 2024). The high-level policy and governance statement that sets out the Departmental requirement for Health, Safety and Environment.
4. MOD JSP 816. The MOD's policy, which sets out the framework for inclusion of Environmental Protection management in all aspects of the work the Department undertakes.

### Justification

5. This regulation has been created to reflect the risk and impact Defence activities may have on the environment, and the need for awareness and management of these risks and impacts within Defence. Effective environmental management arrangements help address statutory, regulatory and policy requirements in a systematic and cost-effective manner, with proactive actions to reduce the risk of non-compliance and improves practices and procedures to achieve a protected environment. Failure to implement effective environmental management arrangements could lead to statutory legislation not being followed, or equivalent outcomes to statutory legislation not being met, resulting in physical environmental damage, operational restrictions, reputational damage for the MOD or significant financial burden.

### Acceptable means of compliance

6. Accountable Person(s) *should* demonstrate that they:
  - a. are resourced with sufficient suitably qualified and experienced personnel who are competent to advise them on environmental risks and impacts and the application of environmental legislation;
  - b. have suitable processes to manage environmental risks and impacts across key interfaces with other areas of responsibility;

- c. have agreed suitable processes to maintain accountability when staff movements occur;
- d. have suitable evidence-based processes for maintaining risk assessments e.g., to take significant changes into account such as policy changes, practices, and operations etc.;
- e. understand their duty to notify other relevant stakeholders (including contractors) of environmental risks and impacts;
- f. have implemented suitable procedures to ensure that all personnel are given appropriate environmental protection training and familiarisation within their area of responsibility;
- g. communicate situations where the potential environmental risks and impacts are greater than their own area of responsibility to all other relevant Accountable Persons affected by the risk and impact. Where risks and impacts are significant to the MOD they are reported to the appropriate policy holder, senior governance boards for environment;
- h. have suitable evidence-based processes for identifying gaps in management arrangements and act upon findings;
- i. have arrangements in place for the monitoring and reporting of environmental performance; and
- j. have arrangements in place that confirm and provide suitable evidence, that legislation, MOD policy and these DEPR regulations are known, and that appropriate procedures are in place to enable them to be complied with throughout their organisation.



## 103: Legislation compliance

### Regulation

1. Accountable Person(s) **shall** implement and maintain suitable arrangements to identify and comply with all relevant environmental legislation requirements for Defence activities within their area of responsibility.

### Provenance

2. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.
3. Policy Statement by the Secretary of State for Defence on Health, Safety and Environment in Defence (January 2024). The high-level policy and governance statement that sets out the Departmental requirement for Health, Safety and Environment.
4. MOD JSP 816. The MOD's policy, which sets out the framework for inclusion of Environmental Protection management in all aspects of the work the Department undertakes. Element 3 of JSP 816 requires Defence to have mechanisms in place to be able to comply with environmental legislation.

### Justification

5. This regulation has been created to reflect the risk and impact Defence activities may have on the environment, and the need for awareness and management of these risks and impacts within Defence. Legislation awareness is necessary to focus Defence responsibilities and to understand which behaviours and practices are acceptable. Legislation compliance is required for all relevant environmental legislation when the MOD does not have a DED, or where a DED is not utilised, to prevent and remedy environmental incidents. Failure to meet legislation requirements or equivalent outcomes can lead to negative impacts on the environment, physical environmental damage, operational restrictions, reputational damage for the MOD, or significant financial burden.

### Acceptable means of compliance

6. Organisation and arrangements for identification of relevant legislation and management of legislation compliance *should* be an integral part of an Environmental Management System.
7. Legislation compliance risks and issues *should* be reviewed at the relevant Environmental Committee meetings. These meetings *should* provide a record of the actions taken to address these compliance issues and risks.
8. As part of an environmental case(s) approval process, compliance registers *should* be accepted as suitable and sufficient by the Accountable Person(s).

## 104: Environmental exemption and derogation registers

### Regulation

1. Accountable Person(s) **shall** provide the DEPR with details of all instances within their area of responsibility that utilise a statutory environmental exemption or derogation.

### Provenance

2. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.
3. Policy Statement by the Secretary of State for Defence on Health, Safety and Environment in Defence (January 2024). The high-level policy and governance statement that sets out the Departmental requirement for Health, Safety and Environment.
4. MOD JSP 816. The MOD's policy, which sets out the framework for inclusion of Environmental Protection management in all aspects of the work the Department undertakes. Element 3 of JSP 816 requires Defence to comply with all relevant environmental legislation.

### Justification

5. This regulation has been created to fill a gap in Defence knowledge, where there is no central oversight of Defence use of exemptions and derogations. Continuing to take advantage of the environmental exemptions and derogations from statutory legislation may lead to increased risk exposure, incomplete understanding of Defence's impact on the environment, and inability to reliably report Defence environmental information. Failure to register could lead to inaccurate reporting and potential non-compliance when temporary provisions expire, could lead to statutory legislation not being followed, resulting in physical environmental damage, operational restrictions, reputational damage for the MOD, or significant financial burden.

### Acceptable means of compliance

6. Each Accountable Person *should* ensure that a record is kept of all instances within their area of responsibility where a statutory exemption or derogation to environmental legislation is being utilised. A record *should* include:
  - a. the title of the legislation and reference location (i.e., clause, section) from which the exemption or derogation has been taken;
  - b. date exemption or derogation was formally approved, and who the exemption or derogation was approved by (i.e., Secretary of State for Defence);

- c. stipulations, caveats, conditions or constraints recorded with the agreement of the exemption or derogation;
- d. date the exemption or derogation expires; and
- e. details of action being taken (where required) to enable eventual compliance with the legal requirement.

## 105: Assurance

### Regulation

1. Accountable Person(s) **shall** ensure that suitable and sufficient processes are maintained to demonstrate compliance with these Defence Environmental Protection regulations and that appropriate evidence of compliance is available.

### Provenance

2. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.
3. The Orange Book sets out the government's approach to successful risk management for all Government departments. The book sets out the three lines model for assurance. The Orange Book can be read in full on the [Government website](#).
4. Policy Statement by the Secretary of State for Defence on Health, Safety and Environment in Defence (January 2024). The high-level policy and governance statement that sets out the Departmental requirement for Health, Safety and Environment.
5. MOD JSP 816. The MOD's policy, which sets out the framework for inclusion of Environmental Protection management in all aspects of the work the Department undertakes. Element 12 of JSP 816 requires Defence to have assurance mechanisms in place across the Lines of Defence to identify strengths and weaknesses of environmental management systems.

### Justification

6. This regulation has been created to fill a gap within Defence. Assurance of environmental management across Defence is required to check and continually improve the procedures and systems in place. Having suitable and sufficient processes in place to demonstrate compliance improves the value, consistency, and accessibility of information for those making decisions, and therefore reduces the risks and impacts that Defence activities may have on the environment. Compliance with this regulation will form the basis of a suitable assurance regime.
7. Failure to apply an assurance regime of self-checking, supervision, and independent oversight may lead to legislation non-compliance, negative impacts on the environment, physical environmental damage, operational restrictions, reputational damage for the MOD, or significant financial burden.

### Acceptable means of compliance

8. Accountable Person(s) *should* ensure that a suitable assurance regime is in place for their area of responsibility, covering their management activities for each level of assurance. The assurance regime *should*:
  - a. ensure that self-checking is periodically conducted and reported;
  - b. ensure that suitable assurance is in place to check the environmental management arrangements are functioning correctly and are effective for their own oversight; and
  - c. ensure demonstration with evidence of their assurance regime to independent reviewers (i.e., DSA, Government Internal Audit Authority).
9. Assurance of the management regime *should* verify that:
  - a. assurance is held at appropriate intervals and levels;
  - b. non-conformities are reported (with possible causes if known) and corrective actions are taken, with processes in place for their timely completion;
  - c. records of assurance activities are maintained; and
  - d. records of senior leadership reviewing the effectiveness of the assurance regime and implement changes if necessary.
10. Information gathered by assurance *should* be reviewed, accepted, and recorded by Accountable Person(s) to demonstrate their management oversight of activities.
11. The requirement for oversight assurance *should* be determined by the significance of the environmental risk and impact, as agreed by the Accountable Person(s).

## 200 Series: Environmental disturbance

1. There are several statutory legislation instruments with the purpose of preventing environmental disturbance which Defence is dis-applied from in certain circumstances or from parts of the instruments. However, where dis-applications exist, the SofS for Defence requires Defence to achieve equivalent outcomes to the legislation, and so these regulations provide instruction and guidance on how Defence can achieve this.
2. The regulations in this series also relate to the five Environment Act 2021 principles which Ministers should show due regard. By association all Defence activities should embed the Act's five principles to demonstrate that Ministers regard is being implemented in all areas of Defence.
3. Four of the Environment Act principles are particularly relevant to environmental disturbance: the prevention principle; the rectification at source principle; the precautionary principle; and the polluter pays principle. For example, the prevention principle means that government policy should aim to prevent environmental harm, the rectification at source principle states that environmental damage should, as a priority, be addressed at its origin to avoid the need to remedy its effects later, the precautionary principle assists the decision-making process to prevent environmental damage where there is a lack of scientific certainty, and the polluter pays principle places a responsibility on those that cause environmental damage pay the cost of rectifying it. The Act's principles highlight key elements of environmental disturbance statutory legislation and the outcomes that they are trying to achieve.

## 201: Strategic environmental assessments

### Regulation

1. Accountable Person(s) **shall** ensure that environmental assessments are carried out on any strategic Defence plan or programme that could impact the environment.

### Provenance

2. Defence is currently disapplied from UK statutory environmental assessment legislation instruments, such as:
  - The Environmental Assessment of Plans and Programmes (England) Regulations 2004;
  - The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004;
  - The Environmental Assessment of Plans and Programmes (Northern Ireland) Regulations; and
  - Environmental Assessment (Scotland) Act 2005.
3. These pieces of legislation aim to ensure that potential environmental effects (both positive and negative) of certain plans and programmes are assessed and set a proposed framework for development consent. The legislation requires that environmental assessments for all potential locations for proposed plans and programmes are completed at the outset of planning to ensure consideration of the environment is integrated into decision making. The assessments should explore the broad environmental impacts the proposed plans and programmes could have at all potential locations. This approach enables development of a local area or region, whilst considering where individual elements of the strategic plan or programme would be best situated to reduce potential negative environmental effects.
4. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.

### Justification

5. This regulation aligns with the SofS HSE Policy Statement, for Defence to achieve equivalent outcomes to the statutory legislation. Strategic environmental assessments are important to identify high-level, broad-scale environmental impacts of proposed plans and programmes at an early stage, to ensure these impacts are taken into consideration and integrated into the decision-making process. Strategic environmental assessments are typically used to plan development within regional or local areas, for example local council housing development plans, these are relevant to the MOD when a pan-Defence initiative



is brought in for a certain region (such as England). As strategic planning helps direct where projects could be located to fulfil the broader plan or programme, if they are not undertaken correctly it could lead to a significant impact at a regional or country level.

6. Failure to undertake strategic environmental assessments may increase the risk of significant negative environmental impacts at a regional or country level and could lead to equivalent outcomes to statutory legislation not being met, resulting in physical environmental damage, operational restrictions, reputational damage for the MOD or significant financial burden.

### **Acceptable means of compliance**

7. This regulation *should* be applied to all strategic MOD plans and programmes which have the potential to significantly impact the environment.
8. The Accountable Person(s) *should* ensure that relevant environmental assessments for any strategic plan or programme are undertaken by suitably competent personnel. The environmental assessments *should* be undertaken irrespective of the procurement strategy, support strategy, owner, contractual arrangements, or operational arrangement.
9. The Accountable Person(s) *should* ensure that all relevant environmental assessments and associated surveys are undertaken in line with guidance provided within internal MOD policies and best practice, which can be accessed on [Knowledge in Defence \(KiD\)](#).
10. Where a strategic plan or programme has the potential to cause significant environmental impact there *should* be evidence of the risk and impact being accepted by the Accountable Person(s). Where appropriate, the Accountable Person(s) *should* notify other relevant Accountable Persons of the risk and impact they are holding.
11. Where strategic plans or programmes have the potential to cause a significant environmental impact, consultation *should* be undertaken with devolved authorities and statutory regulatory bodies by, or on behalf of, the Accountable Person(s) to confirm the scope of the environmental assessment.
12. Where strategic plans or programmes have been assessed to cause significant environmental impacts, mitigation, management, or monitoring *should* be undertaken to ensure that all practicable steps have been taken to reduce the environmental impact.

## 202: Environmental damage

### Regulation

1. Accountable Person(s) **shall** ensure that any environmental damage caused by Defence activities within their area of responsibility are prevented, and where prevention is not possible the damage is remedied.

### Provenance

2. Defence is currently disapplied from UK statutory environmental damage legislation instruments, including:
  - The Environmental Damage (Prevention and Remediation) (England) Regulations 2015;
  - The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009;
  - The Environmental Liability (Scotland) Regulations 2009; and
  - The Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009.
3. The Environmental Damage and Liability Regulations are based on the polluter pays principle and requires those responsible to prevent environmental damage, or remedy damage caused to restore affected areas. In the Environmental Damage and Liability Regulations, environmental damage includes damage to protected species, natural habitats, sites of special scientific interest (SSSI), water, and contamination to land that could have adverse effects on human health.
4. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.

### Justification

5. This regulation aligns with the SofS HSE Policy Statement, for Defence to achieve equivalent outcomes to the statutory legislation, which requires action in response to the most significant cases of environment damage. Environmental damage may be both an imminent threat and actual case of damage, and those responsible must take action to prevent damage occurring or remediate damage where it does occur. Failure to prevent or remediate environmental damage may increase the risk of negative environmental impacts and could lead to equivalent outcomes to statutory legislation not being met, resulting in physical environmental damage, operational restrictions, reputational damage for the MOD or significant financial burden.

### Acceptable means of compliance

6. Accountable Person(s) *should* ensure that activities within their area of responsibility consider:
  - a. the potential for an activity to cause environmental damage;
  - b. if damage could be caused, an environmental assessment *should* be undertaken by someone with appropriate competence. The assessment *should* be in line with guidance provided within internal MOD policies and best practice to ensure any potential environmental damage has been identified with measures to prevent damage;
  - c. all phases of activities (including before, during and after the activity) *should* be considered in the environmental assessment to ensure a full analysis has been carried out for any potential environmental damage that may occur;
  - d. where activities have the potential to cause environmental damage, there *should* be evidence of acceptance of risk from the Accountable Person(s). For example, the potential environmental damage must have been assessed, justified, and the Accountable Person(s) must be content to hold the risk of the potential environmental damage and be prepared to remedy any damage caused;
  - e. where activities have the potential to cause environmental damage, there *should* be evidence of prevention measures implemented and actions taken to prevent the damage throughout all phases of the activities; and
  - f. where unavoidable environmental damage may occur, management and/or monitoring *should* be undertaken throughout all phases of the activities, and mitigation of the impact or remedial measures to restore the affected areas *should* be implemented.
7. Accountable Person(s) *should* ensure that when unintended environmental damage occurs, all practicable steps *should* be taken to avoid or prevent further environmental damage.

# 300 Series: Chemicals, hazardous substances, and hazardous materials

1. There are several statutory legislation instruments which aim to control, manage, and reduce the storage and use of chemicals, hazardous substances, and hazardous materials which can harm the environment. Defence is disapplied from some of these legislation instruments in certain circumstances or from part of the instruments. However, where dis-applications exist, the SofS for Defence requires Defence to achieve equivalent outcomes, and so these regulations provide instruction and guidance on how Defence can achieve this.
2. The regulations in this series also link to the five Environment Act 2021 principles which Ministers should show due regard. By association all Defence activities should embed these five principles to demonstrate that Ministers regard is being implemented in all areas of Defence.
3. All the Environment Act principles are particularly relevant to chemicals, hazardous substances, and hazardous materials: the integration principle; the prevention principle; the rectification at source principle; the polluter pays principle; and the precautionary principle. For example, planning the use of chemicals, hazardous substances and hazardous materials is integrated into projects at the start, if the impacts that certain chemicals, hazardous substances, or hazardous materials may have on the environment are not yet fully known, precautions should still be taken to prevent harm. Should harm occur due to the use of chemicals, hazardous substances, or hazardous materials the MOD should rectify the source of the damage if possible and could be liable to pay for any pollution clean-up operations where the effects are wider than the Defence Estate.

## 301: Control of hazardous substances

### Regulation

1. Accountable Person(s) **shall** ensure that hazardous substances that are stored on Defence establishments and used for Defence activities are planned, controlled, and recorded<sup>2</sup>.

### Provenance

2. Defence is currently disapplied from UK statutory hazardous substance legislation instruments, including:
  - The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015;
  - The Planning (Hazardous Substances) Regulations 2015 (Applicable to England, Wales, and Scotland);
  - The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015; and
  - The Planning (Hazardous Substances) (Wales) Regulations 2015.
3. These pieces of legislation aim to ensure that hazardous substances on sites are planned, controlled, managed, and recorded, which is achieved through granting land-use consent for sites to use and store hazardous substances that demonstrate appropriate handling and storage of hazardous substances. The dis-application means that land-use consents are not required by the MOD for the use or storage of hazardous substances on, over or under MOD establishments.
4. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.

### Justification

5. This regulation aligns with the SofS HSE Policy Statement, for Defence to achieve equivalent outcomes to the statutory legislation. Planning the use of hazardous substances across sites, or local areas ensures that, should an incident occur, the impact is isolated to one location to avoid chain reactions which could cause significant, or

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<sup>2</sup> If your establishment qualifies as a Major Accident Control Regulations (MACR) Site in line with the COMAH Threshold Requirements of Dangerous Substances Schedule 1, hazardous substances should be declared within the Major Accident Prevention Policy (MAPP – Lower Tier) or the Safety Report (SR – Upper Tier) and risk assessed appropriately in line with the DOSR Part 4 regulations.

catastrophic, environmental damage to an area. Defence is disapplied from the statutory legislation and so it is important for the MOD to plan, control and manage hazardous substances for itself to prevent any chain reactions from occurring from an incident.

6. If Defence does not achieve equivalent outcomes to these legislative instruments should an incident occur operational capabilities may be affected, significant physical environmental damage and pollution incidents could occur, which could lead to reputational damage for the MOD, increased statutory regulatory censure, and significant financial burden.

### **Acceptable means of compliance**

7. Accountable Person(s) *should* ensure that each establishment maintains a record of quantity, location, storage, and any other pertinent details of the use of hazardous substances for the purposes of protecting the environment. The record *should* plan locations of hazardous substances to reduce the likelihood of significant environmental harm if an incident occurred. The record *should* be shared with other MOD sites if appropriate. Guidance for Hazardous Substances can be found in JSP 418-Leaflet 05, which can be found on the [Government website](#).
8. Accountable Person(s) *should* ensure that their establishment(s) have appropriate storage and maintenance systems in place and maintenance records for any product or equipment are kept up to date. Maintenance and the updating of records *should* be undertaken and completed by someone with appropriate competence.
9. Accountable Person(s) *should* ensure hazardous substance are stored on their establishments in an appropriate location, facility, and containment.

## 302: Control of the use of mercury

### Regulation

1. Accountable Person(s) **shall** ensure the control of use of mercury and mercury compounds in all Defence products, programmes, and equipment.

### Provenance

2. Defence is currently disapplied from all UK mercury legislation instruments, including:
  - Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury and repealing Regulation (EC) No 1102/2008 (Text with EEA relevance), Regulation (EU) 2017/852;
  - The Control of Mercury (Enforcement) Regulations 2017. This legislation aims to protect the environment through measures and conditions on the use, storage, trade-in, production and management of mercury and mercury waste; and
  - Minamata Convention on Mercury.
3. The legislation aims to control and phase-out the manufacture, import, and export of mercury-added products by specified dates to protect the environment from bioaccumulation of mercury. Mercury-added products refer to items where mercury or a mercury compound has been intentionally added.
4. Defence has a dis-application to the prohibited dates of use of mercury-added products and compounds in Annex II Part A of the legislation. The prohibited dates for all mercury-added products and compounds in the legislation have already past. However, due to the dis-application, Defence can continue to use mercury-added products and compounds beyond the prohibited dates. The legislation also has a derogation for Defence which applies to sharing information where the information would be contrary to the interests of national security.
5. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.

### Justification

6. The regulation aligns with the SofS HSE Policy Statement for Defence to achieve equivalent outcomes to the statutory legislation, which has phased-out the use of certain mercury-added products and compounds. Defence should be able to identify where it is utilising the prohibited mercury-added products to understand how it is using the dis-applications.



7. Mercury is a persistent, highly toxic pollutant and when released into the environment it accumulates in waters and sediments where it converts to methylmercury in fish, seafood, and wildlife where it can enter the food chain. If Defence does not achieve equivalent outcomes to the mercury legislation instruments, unnecessary environmental damage and pollution incidents could occur which could lead to operational restrictions, potential risk to human health, reputational damage to the MOD, financial burden and increased statutory regulatory censure.

#### **Acceptable means of compliance**

8. The Accountable Person(s) *should* identify and record where prohibited mercury-added products and compounds are currently used within MOD equipment, systems, and installations.
9. Where the use of prohibited mercury-added products or compounds are required, the Accountable Person(s) *should* ensure they have considered alternative substances and if no alternatives are available, justification *should* be recorded for the use of the prohibited mercury-added product or compound.
10. Accountable Person(s) *should* implement appropriate storage and maintenance programmes for mercury-added products and compounds. These programmes *should* use people with appropriate competence to undertake the maintenance and updating of records on any MOD equipment, systems and installations that contain prohibited mercury-added products or compounds.
11. The Accountable Person(s) *should* ensure that when MOD equipment, systems, and installations which contain mercury-added products or compounds reach their end of life, appropriate waste management practices are implemented.

## 303: Ozone-depleting substances

### Regulation

1. Accountable Person(s) **shall** ensure the use of ozone-depleting substances (ODS) in any equipment or activity undertaken by the MOD, or on behalf of the MOD, is justified and recorded as evidence.

### Provenance

2. Defence has a derogation for the below pieces of legislation:
  - Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer;
  - The Ozone-Depleting Substances Regulations 2015; and
  - Ozone-Depleting Substances (Grant of Halon Derogations) Regulations 2023 (This piece of legislation is only applicable within England, Scotland, and Wales).
3. These pieces of legislation aim to phase-out ODS to reduce depletion of the ozone layer in the atmosphere and recover ODS from any equipment where they are currently used. The legislation allows for critical uses of ODS which can still be used until a pre-determined cut-off where alternatives should have been found.
4. Defence currently has a derogation for the critical-use cut-off date of ODS. However, Defence should still search for alternative substances to phase-out the critical use of ODS. For Northern Ireland, no DEDs are present and so the MOD must fully comply with legislation for ODS.
5. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.

### Justification

6. This regulation aligns with the SofS HSE Policy Statement, for Defence to achieve equivalent outcomes to the statutory legislation. Defence has a derogation from a limited part of the statutory legislation instruments. For all elements of the legislation that do not have a derogation Defence must comply with statutory legislation. This regulation only covers the elements included within the derogation.
7. ODS cause significant damage to the ozone layer. Damage to the ozone layer results in increased UV-B radiation which is a significant threat to the environment and human health. Ozone depleting substances also have high global warming potential and contribute to the increasing global temperature. Due to the significant environmental damage ODS pose, Defence should justify all use of substances. Defence should

recognise and accept the environmental risks and impact of continuing to use harmful chemicals and be active in seeking alternatives to reduce damage to the atmosphere.

8. If Defence does not try to phase-out ODS and seek alternatives, unnecessary damage to the ozone layer could occur which could lead to environmental damage, reputational damage for the MOD, potential risks to human health, financial burden and increased statutory regulatory censure. It could also lead to operational capability being reduced should manufacturers no longer produce the relevant ODS needed for Defence capabilities, or if there are no other civilian uses for a restricted ODS.

#### **Acceptable means of compliance**

8. Where possible the use of ODS *should* be phased out and alternatives sought. If ODS are required to be used in new equipment or installations, then the Accountable Person(s) *should* ensure this has been assessed for alternatives and, if no alternatives are available, then justification *should* be documented for the required ODS use.
9. Accountable Person(s) *should* ensure there is recorded evidence of quantity, use and location for the use of ODS in equipment or installations. This could be recorded within a Ozone Depleting Substances and Fluorinated Greenhouse Gases Reporting Proforma from JSP 418-Leaflet 07, which can be found on the [Government website](#).

## 304: Fluorinated greenhouse gases

### Regulation

1. Accountable Person(s) **shall** ensure that all MOD equipment, products, and facilities that contain fluorinated greenhouse gases (F-Gases) are recorded, and their use is monitored and justified.

### Provenance

2. Defence is disapplied from the following legislation:
  - The Fluorinated Greenhouse Gases Regulations 2015; and
  - Regulation (EU) 2024/573 of the European Parliament and of the Council of 7 February 2024 on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014.
3. The dis-application that applies to Defence is the prohibition of placing on the market certain products and equipment that contain F-Gases (specified in the legislation). There is also a dis-application for the use of F-Gases with a global warming potential of 2,500 or more, to service or maintain refrigeration equipment with a charge size of 40 tonnes of Carbon Dioxide (CO<sub>2</sub>) equivalent or more.
4. The aim of the legislation is to reduce emissions of F-Gases. The legislation aims to achieve this through bans on certain F-Gases in some applications, phasing down the amount of F-Gases that can be placed on the market, and strengthening of obligations on leak checks, repairs, recovery, and training around use of F-Gases.
5. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.

### Justification

6. This regulation aligns with the SofS HSE Policy Statement, for Defence to achieve equivalent outcomes to the statutory legislation. F-Gases are powerful greenhouse gases and significant contributors to climate change, with a global warming potential of up to 25,000 times greater than CO<sub>2</sub>. Therefore, reducing emissions of F-Gases is important to prevent environmental harm. As a global leader, it is important for the MOD to review its use of F-Gases, recognise the environmental risk associated with their use, and to seek alternatives to prevent environmental risks and damage associated with their use.
7. If Defence does not achieve equivalent outcomes to the F-Gases legislation unnecessary environmental harm and pollution could occur which could lead to reputational damage for the MOD, financial burden, and operational restrictions.

### Acceptable means of compliance

8. Accountable Person(s) *should* recognise and plan where F-Gases will be incorporated in any equipment, product, or facilities, through all stages of the life cycle.
9. At the in-service stage, the Accountable Person(s) *should* record the actual use of F-Gases in any equipment, or facilities.
10. Accountable Person(s) *should* record the use of F-Gases in any equipment, product, or facilities during the in-service stage.
11. Where the use of F-Gases is required, the Accountable Person(s) *should* ensure this has been assessed for alternatives and if no alternatives are available then justification for its use is required and documented for evidence.
12. Where the use of F-Gases has been justified and required, the Accountable Person(s) *should* seek to reduce the amount used and monitor its use through a monitoring programme. For example, there *should* be evidence of quantity, use and location, and consideration of phasing out its use. This could be recorded within a Hazardous Material Technical Dossier.
13. Where F-Gases are used, the Accountable Person(s) *should* implement leak testing, maintenance, and maintenance scheduling. If a leak is detected it *should* be repaired without any undue delay. Maintenance and the updating and maintenance of records *should* be undertaken and completed by someone with appropriate competence. Records *should* be provided for any necessary reporting requirements.
14. The Accountable Person(s) *should* ensure that a recovery system is in place to recover F-Gases in equipment that is no longer in service.

## 400 Series: Waste management

1. There are several statutory legislation instruments which aim to reduce, control, and manage waste. Defence is disapplied from some of the statutory instruments in certain circumstances or from part of the instruments. However, where dis-applications exist, the SofS for Defence requires Defence to achieve equivalent outcomes, and so these regulations provide instruction and guidance on how Defence can achieve this.
2. The regulations in this series also link to the five Environment Act 2021 principles which Ministers should show due regard. By association all Defence activities should embed these five principles to demonstrate that Ministers regard is being implemented in all areas of Defence.
3. The prevention principle is particularly relevant to waste management as properly managing waste management should prevent environmental harm and reduce the need for further resources to be mined or removed from the environment. The Environment Act also covers specific improvements on waste reduction and resources efficiency as a priority area.

## 401: Waste management of electrical and electronic equipment

### Regulation

1. Accountable Person(s) **shall** ensure all electrical and electronic equipment (EEE) is disposed of by implementing the waste hierarchy to prevent and minimise harm to the environment.

### Provenance

2. Defence is currently disapplied from the following statutory legislation:
  - The Waste Management Licensing (Scotland) Regulations 2011. This aims to control the management of waste through licensing activity to ensure it does not endanger human health, present a risk to water, air, soil, plants or animals, cause nuisance through noise or odours, or adversely affect the countryside or places of special interest. For Northern Ireland, no DEDs are present for this piece of legislation and so the MOD must fully comply with it.
  - The Waste (England and Wales) Regulations 2011. This aims to stipulate the required waste management plans for England and Wales.
  - The Waste Electrical and Electronic Equipment Regulations 2013. This aims to regulate EEE and prevent Waste EEE (WEEE) from being sent to landfill or incinerated; prevention and reduction can be achieved through reuse, recycling, and recovery of EEE.
  - The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012. This aims to restrict and control the use of certain hazardous substances contained within EEE products.
3. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.

### Justification

4. This regulation aligns with the SofS HSE Policy Statement for Defence to achieve equivalent outcomes to the statutory legislation. Overall, WEEE legislative instruments aim to prevent WEEE from being sent to landfill or incinerated. Preventing WEEE from going to landfill or being incinerated is beneficial for the MOD as WEEE has a monetary value and often contains finite critical raw materials which, when the waste hierarchy is implemented, can be captured, reused, and repurposed, ultimately conserving valuable resources. WEEE also contains hazardous substances and persistent organic pollutants, if sent to landfill these substances can enter the natural environment, contaminating the land and potential water sources, which can have significant negative impacts on human health, wildlife, and the environment. WEEE also causes air pollution when incinerated.



5. If Defence does not achieve equivalent outcomes to WEEE legislative instruments, unnecessary environmental damage and negative impacts to human health could occur which could lead to reputational damage for the MOD, financial burden, operational restrictions, and increased statutory regulatory censure.

**Acceptable means of compliance**

7. Accountable Person(s) *should* ensure the waste hierarchy is implemented for any activity, product, equipment, or programme that produces WEEE.
8. Accountable Person(s) *should* record all WEEE within their area of responsibility.
9. Accountable Person(s) *should* provide records of WEEE produced and managed within their area of responsibility for any necessary reporting requirements.
10. Accountable Person(s) *should* ensure that there is evidence of traceability of waste management of all WEEE within their area of responsibility through accredited and approved collection and treatment facilities, through to end destination of the WEEE.

## 402: Waste management of batteries and accumulators

### Regulation

1. Accountable Person(s) **shall** ensure all batteries and accumulators are disposed of by implementing the waste hierarchy to prevent and minimise harm to the environment.

### Provenance

2. Defence has a dis-application from the following statutory legislation:
  - Waste Batteries and Accumulators Regulations 2009. This aims to reduce the impact on the environment from the manufacture, distribution, use, disposal and recovery of batteries and accumulators.
  - Batteries and Accumulators (Placing on the Market) Regulations 2008. This aims to promote recycling of batteries and accumulators and prevent prohibited levels of heavy metals from being contained within them. The legislation places a responsibility on producers to be financially responsible for the management of waste that arises from the batteries and accumulators they place on the market. The MOD can sell (place on the market) equipment including batteries and accumulators where it utilises a statutory dis-application to other organisations. The MOD has a duty to ensure that when selling equipment where they are utilising a dis-application the receiving organisation can also utilise the dis-application.
  - The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012. This aims to restrict and control the use of certain hazardous substances contained within EEE products.
3. The Environment Act 2021 aims to protect and enhance the natural environment through a framework of environmental governance, and through specific improvements on priority areas including, waste reduction and resource efficiency, air quality, water, and nature and biodiversity. The Act places a duty on Ministers to consider the environment by paying due regard to the five environmental principles in all Governmental policy. Defence holds a dis-application for the duty but has committed to implementing a non-statutory process to achieve equivalent outcomes.

### Justification

4. This regulation aligns with the SofS HSE Policy Statement, for Defence to achieve equivalent outcomes to the statutory legislation. Overall, the legislation aims to prevent batteries and accumulators from ending up in landfill or being incinerated. Batteries and accumulators contain valuable resources which, when the waste hierarchy is implemented and they are disposed of correctly, can be captured, reused, and repurposed, ultimately conserving valuable resources. When batteries and accumulators go to landfill, the hazardous substances they contain (such as mercury and cadmium which are highly toxic) can enter the natural environment, contaminating the land and water sources around it, which can have significant negative impacts on human health, wildlife, and the environment. Incineration of batteries and accumulators can cause air pollution.

5. If Defence does not achieve equivalent outcomes to battery and accumulator legislative instruments, unnecessary environmental damage and negative impacts to human health could occur which could lead to reputational damage for the MOD, financial burden, operational restrictions and increased statutory regulatory censure.

#### **Acceptable means of compliance**

6. Accountable Person(s) *should* ensure the waste hierarchy is implemented for any activity, product or programme that produces waste batteries or accumulators.
7. Accountable Person(s) *should* keep a record of:
  - a. any batteries or accumulators with over the permissible levels of mercury or cadmium. This could be recorded within a Hazardous Materials Technical Dossier, which can be found in JSP 418-Leaflet 05, which can be found on the [Government website](#);
  - b. any waste batteries and accumulators within their area of responsibility; and
  - c. any batteries and accumulators placed on the market from their area of responsibility.
8. Accountable Person(s) *should* avoid placing batteries and accumulators on the market which contain more than the permissible levels of mercury or cadmium. Where they are placed on the market, Accountable Person(s) *should* ensure they have the correct labelling printed visibly and legibly on them.
9. Accountable Person(s) *should* ensure a suitable disposal route is used for any batteries or accumulators with over the permissible levels of mercury or cadmium.
10. Accountable Person(s) *should* ensure that there is evidence of traceability for batteries and accumulators waste management through accredited and approved collection and treatment facilities.