

Environmental Permitting (England and Wales) Regulations 2016/1154

reg. 2 Interpretation: general

Law In Force

Version 4 of 4

2 October 2023 - Present

Subjects

Environment

2.— Interpretation: general

(1) In these Regulations—

“*the 1980 Act*” means the [Highways Act 1980](#);

“*the 1990 Act*” means the [Environmental Protection Act 1990](#);

“*the 1991 Act*” means the [Water Resources Act 1991](#);

“*the 1993 Act*” means the [Radioactive Substances Act 1993](#);

“*the 1995 Act*” means the [Environment Act 1995](#);

“*the 2007 Regulations*” means the [Environmental Permitting \(England and Wales\) Regulations 2007](#)¹;

“*the 2010 Regulations*” means the [Environmental Permitting \(England and Wales\) Regulations 2010](#)²;

“*the Agency*” means the Environment Agency;

“*agricultural waste*” means waste from premises used for agriculture within the meaning of the [Agriculture Act 1947](#);

“*appropriate agency*” means—

(a) in relation to England, the Agency, and

(b) in relation to Wales, the NRBW,

and references to the “*area*” of an appropriate agency are to be construed accordingly;

“*appropriate authority*” means—

- (a) in relation to England, the Secretary of State, and
- (b) in relation to Wales, the Welsh Ministers;

“*Category A mining waste facility*” means a mining waste facility that is classified as Category A under Article 9 of the Mining Waste Directive;

“*class*”, in relation to a regulated facility, is to be construed in accordance with [regulation 8](#);

“*coastal waters*” has the meaning given in [section 104](#) of the 1991 Act;

[

“*combustion plant*” means any technical apparatus in which fuels are oxidised in order to use the heat generated;

]³

“*confidential information*” means information that is commercially or industrially confidential in relation to any person;

“*culvert*” has the meaning given in [paragraph 3\(3\) of Part 1 of Schedule 25](#);

“*disposal*” —

- (a) except in relation to a radioactive substances activity, has the meaning given in [paragraph 2 of Part 1 of Schedule 9](#);
- (b) in relation to a radioactive substances activity, has the meaning given in [paragraph 1 of Part 2 of Schedule 23](#);

“*drainage*” has the meaning given in [paragraph 2\(1\) of Part 1 of Schedule 25](#);

“*effluent*” has the same meaning as in the 1991 Act;

“*emission*” means—

- (a) in relation to a Part A installation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land;
- (b) in relation to a Part B installation, the direct release of substances or heat from individual or diffuse sources in the installation into the air;
- (c) in relation to a solvent emission activity, the direct or indirect release of substances from individual or diffuse

sources in the regulated facility into the air;

(d) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air;

(e) in relation to a waste operation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land;

(f) in relation to a mining waste operation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land;

(g) in relation to a radioactive substances activity, the direct or indirect release of radioactive material or radioactive waste;

(h) in relation to a small waste incineration plant, the direct or indirect release of substances from individual or diffuse sources in the regulated facility into the air or water;

[

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

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

] ⁴

“*enforcement notice*” means a notice served under [regulation 36](#);

“*enforcement undertaking*” has the meaning given in [paragraph 1\(3\) of Schedule 26](#);

[

“*environmental objectives*” —

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

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

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

] ⁵

“*environmental permit*” has the meaning given in [regulation 13\(1\)](#);

“*environmental permit condition*” means a condition of an environmental permit;

“establishment” has the same meaning as in the Waste Framework Directive;

[

“EU-derived domestic legislation” has the meaning given by [section 2\(2\)](#) of the [European Union \(Withdrawal\) Act 2018](#);

] ⁸

“excluded flood risk activity” has the meaning given in [paragraph 4 of Part 1 of Schedule 25](#);

“excluded waste operation” means any part of a waste operation not carried on at an installation or by means of Part B mobile plant—

(a) that—

(i) requires a marine licence under the [Marine and Coastal Access Act 2009](#)⁹, or

(ii) does not require such a licence by virtue of any provision made by or under [section 74, 75¹⁰](#) or [77](#) of that Act and does not involve the dismantling of a ship that is waste, or

(b) that relates to waste described in [regulation 3\(2\)](#) of the [Controlled Waste \(England and Wales\) Regulations 2012](#)¹¹;

“exempt facility” has the meaning given in [regulation 5](#);

“exempt flood risk activity” has the meaning given in [regulation 5](#);

“exempt groundwater activity” has the meaning given in [regulation 5](#);

“exempt waste operation” has the meaning given in [regulation 5](#);

“exempt water discharge activity” has the meaning given in [regulation 5](#);

“exemption authority” has the meaning given in [paragraph 2 of Schedule 2](#);

“exemption registration authority” has the meaning given in [paragraph 2 of Schedule 2](#);

“existing mining waste facility” means a mining waste facility in operation on 1st May 2008;

“extractive waste” means waste within the meaning of Article 2(1) of the Mining Waste Directive, except where it is excluded from the scope of that Directive by Article 2(2)(a) and (b);

“flood defence structure” has the meaning given in [paragraph 2\(1\) of Part 1 of Schedule 25](#);

“*flood risk activity*” has the meaning given in [paragraph 3 of Part 1 of Schedule 25](#);

“*flood risk activity emergency works notice*” means a notice served under [paragraph 7 of Part 1 of Schedule 25](#);

“*flood risk activity notice of intent*” means a notice served under [paragraph 9\(2\) of Part 1 of Schedule 25](#);

“*flood risk activity remediation notice*” means a notice served under [paragraph 8 of Part 1 of Schedule 25](#);

“*groundwater*” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“*groundwater activity*” has the meaning given in [paragraph 3 of Schedule 22](#);

[

“*groundwater mobile plant*” means plant that is—

- (a) designed to move or be moved whether on roads or other land,
- (b) used to carry on a groundwater activity, and
- (c) not an installation or Part B mobile plant;

“*groundwater Source Protection Zone 1*” means a zone—

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

whichever is larger;

] ¹²

“*hazardous substance*” has the meaning given in [paragraph 4 of Schedule 22](#);

“*hazardous waste*”, subject to paragraph (7)—

- (a) in relation to England, has the meaning given in [regulation 6 of the Hazardous Waste \(England and Wales\) Regulations 2005](#)¹¹;
- (b) in relation to Wales, has the meaning given in [regulation 6 of the Hazardous Waste \(Wales\) Regulations 2005](#)¹³;

“*highway drain*” means a drain which a highway authority or other person is entitled to keep open by virtue of [section](#)

100 of the 1980 Act¹⁴;

“household waste” has the meaning given in [section 75\(5\)](#) of the 1990 Act;

“inland freshwaters” has the meaning given in [section 104](#) of the 1991 Act;

“installation” has the meaning given in [paragraph 1\(1\) of Part 1 of Schedule 1](#);

“lake or pond” and “waters of any lake or pond” have the same meaning as in [section 104](#) of the 1991 Act;

“landfill” has the meaning given in [paragraph 2\(1\)\(d\) of Schedule 10](#);

“landfill closure notice” means a closure notice served under [paragraph 10 of Schedule 10](#);

“local authority” [, except in [Schedule 1A](#),]¹⁵ has the meaning given in [regulation 6](#);

“main river” has the meaning given in [paragraph 2\(1\) of Part 1 of Schedule 25](#);

[

“medium combustion plant” has the meaning given in [paragraph 2\(1\) of Schedule 25A](#);

]¹⁶

“mining waste facility” has the meaning given in [paragraph 2\(1\) of Schedule 20](#);

“mining waste facility closure notice” means a closure notice served under [paragraph 10 of Schedule 20](#);

“mining waste operation” has the meaning given in [paragraph 2\(1\) of Schedule 20](#);

[

“mobile medium combustion plant” means a medium combustion plant that is—

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

]¹⁷[

“mobile plant” , in relation to England, means any of the following—

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

(c) mobile medium combustion plant;

(d) groundwater mobile plant;

] ¹⁸

“*mobile plant*” [, in relation to Wales,] ¹⁹ means [any] ²⁰ of the following—

(a) Part B mobile plant;

(b) waste mobile plant;

[

(c) mobile medium combustion plant;

] ²¹

“*mobile radioactive apparatus*” has the meaning given in [paragraph 1 of Part 2 of Schedule 23](#);

“*the NRBW*” means the Natural Resources Body for Wales;

“*net rated thermal input*” has the meaning given in [paragraph 1\(1\) of Part 1 of Schedule 1](#);

“*non-hazardous waste*”, subject to paragraph (7), means waste which is not hazardous waste;

“*non-tidal main river*” has the meaning given in [paragraph 2\(1\) of Part 1 of Schedule 25](#);

“*nuclear site*”, in relation to a radioactive substances activity, has the meaning given in [paragraph 1 of Part 2 of Schedule 23](#);

“*operate a regulated facility*” and “*operator*” have the meaning given in [regulation 7](#);

“*Part A(1) activity*” means an activity falling within Part A(1) of any Section in [Part 2 of Schedule 1](#);

“*Part A(2) activity*” means an activity falling within Part A(2) of any Section in [Part 2 of Schedule 1](#);

“*Part A installation*” means a Part A(1) installation or a Part A(2) installation;

“*Part A(1) installation*” means an installation where a Part A(1) activity is carried on either alone or in combination with any or all of the following—

(a) a Part A(2) activity;

(b) a Part B activity;

(c) the operation of a small waste incineration plant;

(d) a solvent emission activity;

“Part A(2) installation” means an installation where a Part A(2) activity is carried on either alone or in combination with any or all of the following—

(a) a Part B activity;

(b) the operation of a small waste incineration plant;

(c) a solvent emission activity;

“Part B activity” means an activity falling within Part B of any Section in [Part 2 of Schedule 1](#);

“Part B installation” means, subject to [paragraph (8) and to [Sections 2.2, 5.1 and 6.4 in Part 2 of Schedule 1](#)]²², an installation, not being a Part A installation, where a Part B activity is carried on either alone or in combination with either or both of the following—

(a) the operation of a small waste incineration plant;

(b) a solvent emission activity;

“Part B mobile plant” means plant that is designed to move or be moved whether on roads or other land and that is used to carry on a Part B activity;

“pollutant” [, in relation to Wales,]²³ means any substance liable to cause pollution;

[

“pollutant” , in relation to England, means any—

(a) substance,

(b) heat, or

(c) biological entity or micro-organism, which is liable to cause pollution;”;

“pollution” , in relation to England, in relation to a water discharge activity or groundwater activity, means the direct or indirect introduction, as a result of human activity, of substances, heat or biological entities or micro-organisms into air, water or land which may—

(a) be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on

aquatic ecosystems,

- (b) result in damage to material property, or
- (c) impair or interfere with amenities or other legitimate uses of the environment;

] ¹²

“pollution” [, in relation to Wales,]²⁴ in relation to a water discharge activity or groundwater activity, means the direct or indirect introduction, as a result of human activity, of substances or heat into the air, water or land which may—

- (a) be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,
- (b) result in damage to material property, or
- (c) impair or interfere with amenities or other legitimate uses of the environment;

“pollution”, other than in relation to a water discharge activity or groundwater activity, means any emission as a result of human activity which may—

- (a) be harmful to human health or the quality of the environment,
- (b) cause offence to a human sense,
- (c) result in damage to material property, or
- (d) impair or interfere with amenities or other legitimate uses of the environment;

“prescribed statutory provision” means—

- (a) [Part 4](#) of the [Marine and Coastal Access Act 2009](#)²⁵,
- (b) [section 163](#) of the 1991 Act²⁶,
- (c) [section 165](#) of the [Water Industry Act 1991](#), or
- (d) any local statutory provision (within the meaning given in [section 221](#) of the 1991 Act) or statutory order which expressly confers power to discharge effluent into water;

“prohibition notice” means a notice served under [paragraph 9 of Schedule 22](#);

“proposed transferee” means the person to whom an operator or a regulator proposes to transfer an environmental permit in whole or in part;

“public participation provisions” means [regulations 26, 29 and 60](#), and [paragraphs 6 and 8 of Part 1 of Schedule 5](#);

“public register” has the meaning given in [regulation 46\(1\)](#);

“radioactive material” has the meaning given in [paragraph 3 of Part 2 of Schedule 23](#);

“radioactive substances activity” has the meaning given in [paragraph 11 of Part 2 of Schedule 23](#);

“radioactive substances exemption” means an exemption under [Part 6 of Schedule 23](#) from the requirement for an environmental permit in respect of a radioactive substances activity;

“radioactive waste” has the meaning given in [paragraph 3 of Part 2 of Schedule 23](#);

“recovery” has the meaning given in [paragraph 2 of Part 1 of Schedule 9](#);

“register” and *“registered”*, in relation to an exempt facility, have the meanings given in [paragraph 1\(1\) of Schedule 2](#);

“regulated facility” has the meaning given in [regulation 8](#);

“regulator” means the authority on whom functions are conferred by [regulation 32](#), or by a direction under [regulation 33](#);

“regulator-initiated variation” means the variation of an environmental permit on the initiative of the regulator under [regulation 20\(1\)](#);

“relevant function” has the meaning given in [regulation 9](#);

“relevant territorial waters” has the meaning given in [section 104\(1\)](#) of the 1991 Act;

“remote defence” has the meaning given in [paragraph 3\(3\) of Part 1 of Schedule 25](#);

“revocation notice” means a notice served under [regulation 22\(3\)](#);

“river control works” has the meaning given in [paragraph 3\(3\) of Part 1 of Schedule 25](#);

“rule-making authority” means—

- (a) in relation to a regulated facility for which a local authority is the regulator, the appropriate authority, and

(b) in relation to any other regulated facility, the appropriate agency;

“*sea defence*” has the meaning given in [paragraph 3\(3\) of Part 1 of Schedule 25](#);

“*sewage effluent*” has the meaning given in [section 221](#) of the 1991 Act;

“*sewer*” has the same meaning as in the 1991 Act;

“*small waste incineration plant*” means a waste incineration plant or waste co-incineration plant with a capacity less than or equal to 10 tonnes per day for hazardous waste or 3 tonnes per hour for non-hazardous waste;

“*solvent emission activity*” means an activity to which Chapter V of the Industrial Emissions Directive applies;

[
“*specified generator*” has the meaning given in [paragraph 2\(1\) of Schedule 25B](#);

] ²⁷

“*standard facility*” means a regulated facility described in standard rules published under [regulation 26\(5\)](#);

“*stand-alone flood risk activity*” means a flood risk activity that is not carried on as part of the operation of a regulated facility of another class;

“*stand-alone groundwater activity*” means a groundwater activity that is not carried on as part of the operation of a regulated facility of another class;

“*stand-alone water discharge activity*” means a water discharge activity that is not carried on as part of the operation of a regulated facility of another class;

“*suspension notice*” means a notice served under [regulation 37](#);

“*tidal main river*” has the meaning given in [paragraph 2\(1\) of Part 1 of Schedule 25](#);

“*trade effluent*” has the meaning given in [section 221](#) of the 1991 Act;

“*undertaking*”, except in relation to a radioactive substances activity, has the same meaning as in the Waste Framework Directive;

“*vessel*”, except in [Section 2.2 of Chapter 2 of Part 2 of Schedule 1](#) and in [paragraph 14 of Part 2 of Schedule 23](#), has the same meaning as in the 1991 Act;

“*waste*”, subject to paragraph (6), and except where otherwise defined—

(a) in relation to [Chapter 5 of Part 2 of Schedule 1 and [Schedules 13 to 15, 17, 19, 25A and 25B](#)]²⁸, means anything that—

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

(ii) is not excluded from the scope of that Directive by Article 2(1)(d) of that Directive;

(b) in any other case means anything that—

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

(ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;

“*waste battery*” and “*accumulator*” have the meaning given in Article 3(7) of the Batteries Directive, but do not include any waste which is excluded from the scope of that Directive by Article 2(2);

“*waste co-incineration plant*” means a stationary or mobile technical unit whose main purpose is the generation of energy or production of material products and which uses waste as a regular or additional fuel or in which waste is thermally treated for the purpose of disposal through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

“*waste incineration plant*” means a stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

“*waste mobile plant*” means plant that is—

(a) designed to move or be moved whether on roads or other land,

(b) used to carry on a waste operation, and

(c) not an installation or Part B mobile plant;

“*waste oil*” means mineral-based lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, mineral lubricating oil, oil for turbines and hydraulic oil;

“*waste operation*” means recovery or disposal of waste;

“*watercourse*” has the meaning given in [paragraph 2\(1\) of Part 1 of Schedule 25](#);

“*water discharge activity*” has the meaning given in [paragraph 3 of Schedule 21](#);

“*WEEE*” has the meaning given in Article 3(1)(e) of the WEEE Directive;

[

“*the WFD Regulations*” means the [Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017](#);

]³⁰

“*working day*” means a day other than—

- (a) a Saturday or a Sunday,
- (b) Good Friday or Christmas Day, or
- (c) a day which is a bank holiday under the [Banking and Financial Dealings Act 1971](#).

(2) In paragraph (1), “*statutory order*” means any order, byelaw, scheme or award made under any enactment, including an order or scheme confirmed by Parliament or the National Assembly for Wales, or brought into operation in accordance with special parliamentary procedure or special procedure in the Assembly.

(3) For the purpose of calculating a period of time from one event to another event, that period—

- (a) starts at the beginning of the day on which the first event occurs, and
- (b) ends at the end of the day on which the second event occurs.

(4) In these Regulations, a power to give a direction includes a power to vary or revoke it.

(5) Paragraph (6) applies where a person (“A”)—

- (a) carries on a radioactive substances activity described in [paragraph 11\(2\)\(b\) or \(c\) or \(4\) of Part 2 of Schedule 23](#) in respect of radioactive waste,
- (b) is exempt under [regulation 12\(3\)](#) from the requirement for an environmental permit in respect of that activity and that waste (“the relevant exemption”), and
- (c) the waste (“the applicable radioactive waste”) is—
 - (i) NORM waste (as that term is defined in [paragraph 2 of Part 6 of Schedule 23](#)), or

(ii) the waste described in the first, second or sixth row of column 1 of Table 6 in Part 6 of Schedule 23.

(6) Where this paragraph applies, for so long as the relevant exemption applies to A, the applicable radioactive waste must be treated for the purposes of these Regulations as if it were waste other than radioactive waste.

(7) In relation to an activity that falls within Chapter 5 of Part 2 of Schedule 1 or [Schedule 13](#), hazardous waste means waste which displays any of the characteristics listed in Annex III to the Waste Framework Directive.

[

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

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

]³¹

Notes

- 1 Amended by [S.I. 2009/1307](#), [1799](#), [3381](#), [2010/22](#), [490](#), [675](#), [2011/988](#) and [2012/811](#).
- 2 Amended by [paragraph 30 of Part 2 of Schedule 12 to the Energy Act 2013 \(c. 32\)](#) and by [S.I. 2010/676](#), [2172](#), [2011/600 \(W. 88\)](#), [988](#), [2043](#), [2933](#), [2012/630](#), [811](#), [2013/390](#), [755 \(W. 90\)](#), [766](#), [2952](#), [2014/255](#), [517 \(W. 60\)](#), [2852](#), [2015/324](#), [664](#), [918](#), [934](#), [1360](#), [1417 \(W. 141\)](#), [1756](#), [1973](#), [2016/58 \(W. 28\)](#), [149](#), [475](#), [691 \(W. 189\)](#) and [738](#).
- 3 Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(a\)](#) (January 30, 2018)
- 4 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(b\)](#) (January 30, 2018)
- 5 Definition inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 [reg.2\(2\)\(a\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 6 [S.I. 2003/3245](#), amended by [S.I. 2016/139](#) and [2017/407](#).
- 7 [S.I. 2004/99](#), amended by [S.I. 2016/139](#).
- 8 Definition inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 [reg.2\(2\)\(b\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 9 [Part 4](#) of that Act concerns marine licensing.
- 10 [Section 75](#) was amended by [S.I. 2011/405](#) and [2016/738](#).

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- 11 To which there are amendments not relevant to these Regulations.
- 12 Definitions inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 [reg.3\(d\)](#) (October 2, 2023)
- 13 Amended by [S.I. 2015/1417 \(W. 141\)](#); there are other amending instruments but none is relevant.
- 14 Section 100 was amended by [paragraph 21 of Schedule 4 to the Local Government Act 1985 \(c. 51\)](#), [paragraph 62 of Schedule 25 to the Water Act 1989 \(c. 15\)](#), [paragraph 36\(1\) of Schedule 1 to the Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60\)](#) and [paragraph 9 of Schedule 7 to the Local Government \(Wales\) Act 1994 \(c. 19\)](#).
- 15 Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 [reg.2\(2\)\(c\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 16 Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(c\)](#) (January 30, 2018)
- 17 Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(d\)](#) (January 30, 2018)
- 18 Definition inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 [reg.3\(d\)](#) (October 2, 2023)
- 19 Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 [reg.3\(a\)](#) (October 2, 2023)
- 20 Word substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(e\)\(i\)](#) (January 30, 2018)
- 21 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(e\)\(ii\)](#) (January 30, 2018)
- 22 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(f\)](#) (January 30, 2018)
- 23 Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 [reg.3\(b\)](#) (October 2, 2023)
- 24 Words inserted by Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2023/651 [reg.3\(c\)](#) (October 2, 2023)
- 25 Part 4 was amended by [section 76\(2\) of the Energy Act 2016 \(c. 20\)](#) and by [S.I. 2011/405, 1043, 1210, 2015/374, 664 and 2016/738](#). It is prospectively amended by [sections 76 to 80 of the Environment \(Wales\) Act 2016 \(anaw. 3\)](#) from a date to be appointed.
- 26 Section 163 was amended by [S.I. 2003/1615 and 2013/755 \(W. 90\)](#).

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- 27 Definition inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(g\)](#) (January 30, 2018)
- 28 Words substituted by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(1\)\(h\)](#) (January 30, 2018)
- 29 Words inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 [reg.2\(2\)\(d\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 30 Definition inserted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 [reg.2\(2\)\(e\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 31 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2018/110 [Pt 2 reg.3\(2\)](#) (January 30, 2018)
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Part 1 General > reg. 2 Interpretation: general

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reg. 12 Requirement for an environmental permit

Law In Force

Version 2 of 2

30 January 2018 - Present

Subjects

Environment

12.— Requirement for an environmental permit

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

- (a) operate a regulated facility, or
- (b) cause or knowingly permit a water discharge activity or groundwater activity.

[

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

- (a) a new medium combustion plant, before 20th December 2018;
- (b) an existing medium combustion plant with a rated thermal input greater than 5 megawatts, before 1st January 2024;
- (c) an existing medium combustion plant with a rated thermal input of less than or equal to 5 megawatts, before 1st January 2029;
- (d) a specified generator, before the permitting date,

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

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

- (a) "*existing medium combustion plant*" and "*new medium combustion plant*" have the meanings given in [paragraph 2\(1\) of Schedule 25A](#);
- (b) "*permitting date*" has the meaning given in [paragraph 3\(2\) of Schedule 25B](#).

]¹

- (2) Paragraph (1)(b) does not apply if the water discharge activity or groundwater activity is an exempt facility.
- (3) In respect of a radioactive substances activity, paragraph (1) does not apply to a person to whom a radioactive substances exemption applies for that activity.
- (4) Paragraph (5) applies to a person (“A”) who—
 - (a) receives radioactive waste from another person (“B”) for the purposes of A disposing of that waste, and
 - (b) subsequently disposes of that waste.
- (5) Where this paragraph applies, A does not require an environmental permit—
 - (a) for the receipt of waste from B, where B holds an environmental permit which allows B to dispose of the waste to A, or
 - (b) for the subsequent disposal of that waste by A, where the waste is disposed of in accordance with the permit held by B.

Notes

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

Part 2 Environmental permits > Part 1 Application to the Crown and requirement for an environmental permit > reg. 12 Requirement for an environmental permit

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reg. 20 Variation of an environmental permit

Law In Force

Version 3 of 3

27 February 2025 - Present

Subjects

Environment

20.— Variation of an environmental permit

- (1) The regulator may vary an environmental permit on the application of the operator or on its own initiative.
- (2) A variation under this regulation must not reduce the extent of the site of a regulated facility.
- (3) Paragraph (2) does not apply if the variation relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description—
 - (a) a Part B installation, except to the extent that it relates to a waste operation;
 - (b) a stand-alone water discharge activity or stand-alone groundwater activity.
- (4) With respect to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone water discharge activity, a regulator must not, without the agreement of the operator, on its own initiative—
 - (a) within 4 years after the grant of the permit, vary any condition of the permit that relates to the water discharge activity, or
 - (b) within 4 years after the variation of a condition of the permit that relates to the water discharge activity, further vary that condition.
- (5) Paragraph (4) does not apply if—
 - (a) the regulated facility is a standard facility,
 - (b) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in order to comply with—
 - (i) an obligation [under [assimilated]² law]¹ , or

- (ii) a direction given by the appropriate authority under [regulation 62](#), or
 - (c) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in consequence of a transfer or partial transfer of an environmental permit under [regulation 21](#).
- (6) [Part 1 of Schedule 5](#) applies in relation to an application for the variation of an environmental permit or a proposal to vary an environmental permit on the initiative of the regulator under paragraph (1).
- (7) With respect to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone flood risk activity, the regulator must not, without the agreement of the operator, of its own initiative vary any condition of the permit that relates to the flood risk activity unless—
- (a) in the opinion of the regulator, the circumstances in which the activity is or is to be carried on have changed such that any of the objectives in [paragraph 5 of Part 1 of Schedule 25](#) would no longer be met, and
 - (b) in the case of a variation that relates to an activity that involves any construction or works, the variation relates to aspects of the construction or works which have not yet been completed.
- (8) Paragraph (7) does not apply if the regulator, of its own initiative, varies an environmental permit, or any condition of a permit, in order to comply with—
- (a) an obligation [under [assimilated]² law]¹ , or
 - (b) a direction given by the appropriate authority under [regulation 62](#).

Notes

- 1 Words substituted by Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019/39 [reg.2\(5\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 2 Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025/82 [Sch.15\(1\) para.38\(a\)](#) (February 27, 2025)

Part 2 Environmental permits > Part 3 Variation, transfer, revocation and surrender of an environmental permit > reg. 20 Variation of an environmental permit

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reg. 31 Appeals to an appropriate authority

Law In Force

Version 1 of 1

1 January 2017 - Present

Subjects

Environment

31.— Appeals to an appropriate authority

- (1) Subject to paragraphs (2) and (3), the following persons may appeal to the appropriate authority—
- (a) a person whose application is refused;
 - (b) a person who is aggrieved by a decision to impose an environmental permit condition following that person's application;
 - (c) a person who is aggrieved by a decision to impose a condition on an environmental permit held by that person—
 - (i) as a result of a regulator-initiated variation, or
 - (ii) to take account of the partial transfer, partial revocation or partial surrender of that environmental permit;
 - (d) a person who is aggrieved by the deemed withdrawal under [paragraph 4\(2\) of Part 1 of Schedule 5](#) of that person's duly-made application;
 - (e) a person who is aggrieved by a decision relating to an environmental permit held by that person not to authorise the closure procedure mentioned in—
 - (i) Article 13 of the Landfill Directive after a request referred to in Article 13(a)(ii) of that Directive, or
 - (ii) Article 12 of the Mining Waste Directive after a request referred to in Article 12(2)(b) of that Directive;
 - (f) a person on whom an enforcement notice, a revocation notice, suspension notice, prohibition notice, landfill closure notice, mining waste facility closure notice, flood risk activity emergency works notice, flood risk activity notice of intent or flood risk activity remediation notice is served.

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

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

(i) [regulation 62\(1\)](#),

(ii) [regulation 63\(1\)](#) or [\(6\)](#), or

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

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

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

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

(a) may quash or affirm the notice, and

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

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

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

(7) Except as otherwise provided by this regulation—

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

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

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

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

(b) states that, in the opinion of the regulator, the revocation is necessary for the purpose of preventing or, where that is

not practicable, minimising, pollution.

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

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

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

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

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

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

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

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

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

(13) In this regulation—

“*application*” has the meaning given in [paragraph 1 of Part 1 of Schedule 5](#);

“*person*” includes a person to whom an environmental permit is transferred after—

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

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

appropriate authority

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reg. 36 Enforcement notices

Law In Force

Version 1 of 1

1 January 2017 - Present

Subjects

Environment

36.— Enforcement notices

- (1) If the regulator considers that an operator has contravened, is contravening, or is likely to contravene an environmental permit condition, the regulator may serve a notice on the operator.
- (2) The notice must—
 - (a) state the regulator's view under paragraph (1),
 - (b) specify the matters constituting the contravention or making a contravention likely,
 - (c) specify the steps that must be taken to remedy the contravention or to ensure that the likely contravention does not occur, and
 - (d) specify the period within which those steps must be taken.
- (3) Steps that may be specified in the notice include steps—
 - (a) to make the operation of a regulated facility comply with the environmental permit conditions, and
 - (b) to remedy the environmental effects caused by the contravention.
- (4) In paragraph (3)(b) "*environmental effects*" means—
 - (a) in relation to a flood risk activity—
 - (i) flooding or risk of flooding;
 - (ii) detrimental impact on drainage or risk of detrimental impact on drainage;

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

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

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

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

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

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

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

Part 4 Enforcement and offences > reg. 36 Enforcement notices

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reg. 38 Offences

Law In Force

Version 2 of 2

7 April 2019 - Present

Subjects

Environment

38.— Offences

(1) It is an offence for a person to—

- (a) contravene [regulation 12\(1\)](#), or
- (b) knowingly cause or knowingly permit the contravention of [regulation 12\(1\)\(a\)](#).

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

[

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

]

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

(4) It is an offence for a person—

- (a) to fail to comply with a notice under [regulation 61\(1\)](#) requiring the provision of information, without reasonable excuse;
- (b) to make a statement which the person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
 - (i) in purported compliance with a requirement to provide information imposed by or under a provision of these Regulations,
 - (ii) for the purpose of obtaining the grant of an environmental permit to any person, or the variation, transfer in whole or in part, or surrender in whole or in part of an environmental permit, or

- (iii) for the purpose of obtaining, renewing or amending the registration of an exempt facility;
- (c) intentionally to make a false entry in a record required to be kept under an environmental permit condition;
- (d) with intent to deceive—
 - (i) to forge or use a document issued or authorised to be issued or required for any purpose under an environmental permit condition, or
 - (ii) to make or have in the person's possession a document so closely resembling such a document as to be likely to deceive.
- (5) It is an offence for an establishment or undertaking to—
 - (a) fail to comply with [paragraph 17\(3\) or \(4\) of Schedule 2](#), or
 - (b) intentionally make a false entry in a record required to be kept under that paragraph.
- (6) If an offence committed by a person under this regulation is due to the act or default of some other person, that other person is also guilty of the offence and liable to be proceeded against and punished accordingly, whether or not proceedings for the offence are taken against the first-mentioned person.

Notes

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

Part 4 Enforcement and offences > reg. 38 Offences
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reg. 39 Penalties and enforcement undertakings

Law In Force

Version 5 of 5

1 December 2023 - Present

Subjects

Environment

39.— Penalties and enforcement undertakings

- (1) Subject to paragraph (2), a person guilty of an offence under [regulation 38\(1\), \(2\) or \(3\)](#) is liable—
 - (a) on summary conviction to a fine or imprisonment for a term not exceeding [the general limit in a magistrates' court]¹, or to both;
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years, or to both.
- (2) A person guilty of offence under [regulation 38\(1\), \(2\) or \(3\)](#) in respect of a flood risk activity is liable—
 - (a) on summary conviction to a fine or imprisonment for a term not exceeding [the general limit in a magistrates' court]¹, or to both;
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or both.
- (3) In relation to an offence committed before [2nd May 2022]², paragraphs (1)(a) and (2)(a) have effect as if for [“the general limit in a magistrates' court”]¹ there were substituted “6 months”.
- (4) A person guilty of an offence under [regulation 38\(4\)](#) is liable—
 - (a) on summary conviction to a fine;
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.
- (5) An establishment or undertaking guilty of an offence under [regulation 38\(5\)](#) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) [Schedule 26](#) (enforcement undertakings) has effect.

[

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

]³

Notes

- 1 Words substituted by Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023/149 [Sch.1\(2\) para.1](#) (February 7, 2023 at 12.00)
 - 2 Words substituted by Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022/500 [Sch.1\(2\) para.1](#) (April 28, 2022)
 - 3 Added by Environmental Permitting (England and Wales) (Amendment) (England) (No. 2) Regulations 2023/1046 [reg.3](#) (December 1, 2023)
-

Part 4 Enforcement and offences > reg. 39 Penalties and enforcement undertakings
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reg. 41 Offences by bodies corporate

Law In Force

Version 1 of 1

1 January 2017 - Present

Subjects

Environment

41.— Offences by bodies corporate

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

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

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

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

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

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

Part 4 Enforcement and offences > reg. 41 Offences by bodies corporate

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