*Draft Regulations laid before Parliament and the National Assembly for Wales under section 2(8) and (9)(d) and (e) of the Pollution Prevention and Control Act 1999 and sections 62(4)(c) and (d), (7) and (8) and 90(3) of the Water Act 2014, for approval by resolution of each House of Parliament and of the Assembly.*

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D R A F T  S T A T U T O R Y  I N S T R U M E N T S

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# 2016 No. 0000

# ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

## The Environmental Permitting (England and Wales) Regulations 2016

*Made - - - -* ***

*Coming into force in accordance with regulation 1(1)*

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

(a) sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999 ("the 1999 Act")(**a**);

(b) sections 61 and 90 of, and Schedule 8 to, the Water Act 2014 ("the 2014 Act")(**b**); and

(c) paragraph 1A of Schedule 2 to the European Communities Act 1972(**c**).

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

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

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

(**c**) 1972 c. 68; paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) and by S.I. 2007/1388.

(**d**) 2008 c. 13.

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

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

(a) the Environment Agency,

(b) the Natural Resources Body for Wales,

(c) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses as they consider appropriate, and

(d) such other bodies or persons as they consider appropriate.

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

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

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

# PART 1

## General

### Citation, commencement, extent and application

**1.**—(1) These Regulations may be cited as the Environmental Permitting (England and Wales) Regulations 2016 and come into force 21 days after the day on which these Regulations are made.

(2) These Regulations extend to England and Wales only.

(3) They apply in relation to—

(a) England and the sea adjacent to England out as far as the seaward boundary of the territorial sea, and

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

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

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

(b) Wales, within the meaning given by section 158 of the Government of Wales Act 2006(**a**).

(4) In paragraph (3)(a), the sea adjacent to England is so much of the sea adjacent to Great Britain as—

(a) is not the sea adjacent to Scotland, and

(b) does not form part of Wales.

(5) In paragraph (4)(a), the sea adjacent to Scotland has the same meaning as the internal waters and territorial sea of the United Kingdom adjacent to Scotland has by virtue of section 126(2) of the Scotland Act 1998(**b**).

**Interpretation: general**

**2.**—(1) In these Regulations—

"the 1980 Act" means the Highways Act 1980(**c**);

"the 1990 Act" means the Environmental Protection Act 1990(**d**);

"the 1991 Act" means the Water Resources Act 1991(**e**);

"the 1993 Act" means the Radioactive Substances Act 1993(**f**);

"the 1995 Act" means the Environment Act 1995(**g**);

"the 2007 Regulations" means the Environmental Permitting (England and Wales) Regulations 2007(**h**);

"the 2010 Regulations" means the Environmental Permitting (England and Wales) Regulations 2010(**i**);

"the Agency" means the Environment Agency;

"agricultural waste" means waste from premises used for agriculture within the meaning of the Agriculture Act 1947(**j**);

"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;

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(**a**) 2006 c.32. Section 158(1) defines "Wales" as including the sea adjacent to Wales out as far as the seaward boundary of the territorial sea. Section 158(3) makes provision for the determination of any boundary between waters which are to be treated as parts of the sea adjacent to Wales and those which are not. The boundary between the sea adjacent to Wales and that adjacent to England is partly determined by article 6 of, and Schedule 3 to, S.I. 1999/672. By virtue of paragraph 26 of Schedule 11 to the Government of Wales Act 2006, S.I. 1999/672 continues to have effect.

(**b**) 1998 c. 46. The boundaries between waters which are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not are set out in S.I. 1999/1126.

(**c**) 1980 c. 66.

(**d**) 1990 c. 43.

(**e**) 1991 c. 57.

(**f**) 1993 c. 12.

(**g**) 1995 c. 25.

(**h**) S.I. 2007/3538, amended by S.I. 2009/1307, 1799, 3381, 2010/22, 490, 675, 2011/988 and 2012/811.

(**i**) S.I. 2010/675, 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.

(**j**) 1947 c. 48.

"coastal waters" has the meaning given in section 104 of the 1991 Act;

"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;

"enforcement notice" means a notice served under regulation 36;

"enforcement undertaking" has the meaning given in paragraph 1(3) of Schedule 26;

"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;

"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(**a**), or

(ii) does not require such a licence by virtue of any provision made by or under section 74, 75(**b**) or 77 of that Act and does not involve the dismantling of a ship that is waste, or

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(**a**) 2009 c. 23; Part 4 of that Act concerns marine licensing.
(**b**) Section 75 was amended by S.I. 2011/405 and 2016/738.

(b) that relates to waste described in regulation 3(2) of the Controlled Waste (England and Wales) Regulations 2012(**a**);

"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;

"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(**b**);

(b) in relation to Wales, has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005(**c**);

"highway drain" means a drain which a highway authority or other person is entitled to keep open by virtue of section 100 of the 1980 Act(**d**);

"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" has the meaning given in regulation 6;

"main river" has the meaning given in paragraph 2(1) of Part 1 of Schedule 25;

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(**a**) S.I. 2012/811, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2005/894, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2005/1806 (W. 138), amended by S.I. 2015/1417 (W. 141); there are other amending instruments but none is relevant.
(**d**) 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).

"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 plant" means either of the following—

(a) Part B mobile plant;

(b) waste mobile plant;

"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 Sections 2.2, 5.1 and 6.4 in Part 2 of Schedule 1, 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" means any substance liable to cause pollution;

"pollution", 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(**a**),

(b) section 163 of the 1991 Act(**b**),

(c) section 165 of the Water Industry Act 1991(**c**), 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—

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(**a**) 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.

(**b**) Section 163 was amended by S.I. 2003/1615 and 2013/755 (W. 90).

(**c**) 1991 c. 56.

(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;

"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 and 19, means anything that—

  (i) is waste within the meaning of Article 3(1) of the Waste Framework Directive, 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, 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;

"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(**a**).

(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.

**Interpretation: Directives**

**3.** In these Regulations—

"the Asbestos Directive" means Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos(**b**);

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(**a**) 1971 c. 80.

(**b**) OJ No L 85, 28.3.1987, p 40, as last amended by Council Regulation (EC) No 807/2003 (OJ No L 122, 16.5.2003, p 36).

"the Basic Safety Standards Directive" means Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation(**a**);

"the Batteries Directive" means Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators(**b**);

"the End-of-Life Vehicles Directive" means Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles(**c**);

"the Energy Efficiency Directive" means Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency(**d**);

"the Groundwater Directive" means Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration(**e**);

"the HASS Directive" means Council Directive 2003/122/Euratom on the control of high-activity sealed radioactive sources and orphan sources(**f**);

"the Industrial Emissions Directive" means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)(**g**);

"the Landfill Directive" means Council Directive 1999/31/EC on the landfill of waste(**h**), as read with Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of, and Annex II to, Directive 1999/31/EC(**i**);

"the Mining Waste Directive" means Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries(**j**);

"PVR I" means European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(**k**);

"PVR II" means Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations(**l**);

"the Waste Framework Directive" means Directive 2008/98/EC of the European Parliament and of the Council on waste(**m**);

"the Water Framework Directive" means Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(**n**);

"the WEEE Directive" means Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE)(**o**).

**Exempt facilities and the application of section 33(1)(a) of the 1990 Act**

**4.**—(1) Schedule 2 (exempt facilities: general) has effect.

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(**a**) OJ No L 159, 29.6.1996, p 1, as corrected by a corrigendum (OJ No L 314, 4.12.1996, p 20). The Directive is prospectively repealed from 6th February 2018 by Council Directive 2013/59/Euratom (OJ No L 13, 17.1.2014, p 1).
(**b**) OJ No L 266, 26.9.2006, p 1, as last amended by Directive 2013/56/EU (OJ No L 329, 10.12.2013, p 5).
(**c**) OJ No L 269, 21.10.2000, p 34, as last amended by Commission Directive (EU) 2016/774 (OJ No L 128, 19.5.2016, p 4).
(**d**) OJ No L 315, 14.11.2012, p 1, as last amended by Council Directive 2013/12/EU (OJ No L 141, 28.5.2013, p 28).
(**e**) OJ No L 372, 27.12.2006, p 19, as last amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p 52).
(**f**) OJ No L 346, 31.12.2003, p 57. The Directive is prospectively repealed from 6th February 2018 by Council Directive 2013/59/Euratom (OJ No L 13, 17.1.2014, p 1).
(**g**) OJ No L 334, 17.12.2010, p 17, as corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).
(**h**) OJ No L 182, 16.7.1999, p 1, as last amended by Council Directive 2011/97/EU (OJ No L 328, 10.12.2011, p 49).
(**i**) OJ No L 11, 16.1.2003, p 27.
(**j**) OJ No L 102, 11.4.2006, p 15, as last amended by Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p 14).
(**k**) OJ No L 365, 31.12.1994, p 24, as last amended by Regulation (EC) No 1137/2008 (OJ No L 311, 21.11.2008, p 1).
(**l**) OJ No L 285, 31.10.2009, p 36, as amended by Commission Directive 2014/99/EU (OJ No L 304, 23.10.2014, p 89).
(**m**) OJ No L 312, 22.11.2008, p 3, as last amended by Commission Directive (EU) 2015/1127 (OJ No L 184, 11.7.2015, p 13).
(**n**) OJ No L 327, 22.12.2000, p 1, as last amended by Commission Directive 2014/101/EU (OJ No L 311, 31.10.2014, p 32).
(**o**) OJ No L 197, 24.7.2012, p 38.

(2) Schedule 3 (exempt facilities and waste operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions) has effect.

(3) Section 33(1)(a) of the 1990 Act(**a**)—

(a) does not apply to an operation which—

(i) falls within a description in Part 5 of Schedule 3, and

(ii) meets the conditions specified in that Part for that description, and

(b) does not apply to extractive waste at any time before the requirement for an environmental permit under regulation 12 applies in respect of the deposit of that waste.

**Interpretation: exempt facilities**

**5.** In these Regulations—

"exempt facility" means—

(a) an exempt waste operation,

(b) an exempt water discharge activity,

(c) an exempt groundwater activity, or

(d) an exempt flood risk activity;

"exempt flood risk activity" means a flood risk activity that meets the requirements of paragraph 9 of Schedule 2;

"exempt groundwater activity" means—

(a) a stand-alone groundwater activity that meets the requirements of—

(i) in relation to Wales only, paragraph 7 of Schedule 2;

(ii) in relation to England only, paragraph 8 of Schedule 2, or

(b) a groundwater activity that—

(i) is a groundwater tracer test as defined in paragraph 1 of Part 3 of Schedule 3,

(ii) is also a radioactive substances activity by virtue of the using of radioactive material as a part of that test, and

(iii) meets the requirements of—

(aa) in relation to Wales only, paragraph 7 of Schedule 2;

(bb) in relation to England only, paragraph 8 of Schedule 2;

"exempt waste operation" means a waste operation—

(a) that is not carried on at an installation, and

(b) that meets the requirements of paragraph 4(1) of Schedule 2;

"exempt water discharge activity" means a stand-alone water discharge activity that meets the requirements of—

(a) in relation to Wales only, paragraph 5 of Schedule 2;

(b) in relation to England only, paragraph 6 of Schedule 2.

**Interpretation: local authority**

**6.**—(1) In these Regulations, "local authority" means—

(a) in England outside Greater London—

(i) a district council,

(ii) where there is a county council but no district council, the county council, or

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

(iii) the Council of the Isles of Scilly;

(b) in Greater London—

(i) the council of a London borough,

(ii) the Common Council of the City of London,

(iii) the Sub-Treasurer of the Inner Temple, or

(iv) the Under-Treasurer of the Middle Temple;

(c) in Wales—

(i) a county council, or

(ii) a county borough council.

(2) Where a port health authority has been constituted for a port health district by an order under section 2 of the Public Health (Control of Disease) Act 1984(**a**) that authority is the local authority for the area covered by that district in relation to a Part B installation, a small waste incineration plant or a solvent emission activity.

**Interpretation: operate a regulated facility and operator**

**7.** In these Regulations—

"operate a regulated facility" means—

(a) operate an installation or mobile plant, or

(b) carry on a waste operation, mining waste operation, radioactive substances activity, water discharge activity, groundwater activity, small waste incineration plant operation, solvent emission activity or flood risk activity;

"operator", in relation to a regulated facility, means—

(a) the person who has control over the operation of the regulated facility,

(b) if the regulated facility has not yet been put into operation, the person who will have control over the regulated facility when it is put into operation, or

(c) if a regulated facility authorised by an environmental permit ceases to be in operation, the person who holds the environmental permit.

**Interpretation: regulated facility and class of regulated facility**

**8.**—(1) In these Regulations, "regulated facility" means any of the following—

(a) an installation;

(b) mobile plant;

(c) a waste operation;

(d) a mining waste operation;

(e) a radioactive substances activity;

(f) a water discharge activity;

(g) a groundwater activity;

(h) a small waste incineration plant;

(i) a solvent emission activity;

(j) a flood risk activity.

(2) But the following are not regulated facilities—

(a) an exempt facility;

(b) an excluded waste operation;

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(**a**) 1984 c. 22.

(c) the disposal or recovery of household waste from a domestic property within the curtilage of that property by a person other than an establishment or undertaking;

(d) an excluded flood risk activity.

(3) In these Regulations, a reference to a class of regulated facility is a reference to a class in paragraph (1).

(4) A regulated facility of any of the following classes may be carried on as part of the operation of a regulated facility of another class—

(a) a waste operation;

(b) a mining waste operation;

(c) a water discharge activity;

(d) a groundwater activity;

(e) a small waste incineration plant;

(f) a solvent emission activity;

(g) a flood risk activity.

**Interpretation: relevant function**

**9.** In these Regulations, "relevant function" means any of the following functions—

(a) determining an application—

(i) for the grant of an environmental permit under regulation 13(1);

(ii) for the variation of an environmental permit under regulation 20(1);

(iii) for the transfer of an environmental permit in whole or in part under regulation 21(1);

(iv) for the surrender of an environmental permit in whole or in part under regulation 25(2);

(b) varying an environmental permit—

(i) on the initiative of the regulator under regulation 20(1);

(ii) in relation to a transfer in whole or in part under regulation 21(1) or (3);

(iii) in relation to a partial revocation under regulation 22(1);

(iv) in relation to a partial surrender under regulation 24(2) or 25(2);

(c) revoking an environmental permit in whole or in part under regulation 22(1);

(d) exercising the power to serve a notice under Schedule 21 or 25 requiring a person to hold an environmental permit;

(e) exercising the following powers or duty—

(i) any power in relation to standard rules in Chapter 4 of Part 2;

(ii) the duty to vary an environmental permit after revocation of standard rules in regulation 30(3);

(f) exercising any of the following powers relating to enforcement—

(i) the power to serve an enforcement notice;

(ii) the power to serve a suspension notice;

(iii) the power to serve a prohibition notice;

(iv) the power to serve a landfill closure notice;

(v) the power to serve a mining waste facility closure notice;

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

(h) exercising the power to take steps under paragraph 9(1) of Part 1 of Schedule 25.

**Giving notices, notifications and directions, and the submission of forms**

**10.**—(1) In this regulation, "instrument" means a notice, notification, certificate, direction or form under these Regulations.

(2) An instrument must be in writing.

(3) An instrument may be served on or given to a person by—

(a) personal delivery,

(b) leaving it at the person's proper address, or

(c) sending it by post or electronic means to the person's proper address.

(4) In the case of a body corporate, an instrument may be served on or given to a director of that body or the secretary or clerk.

(5) In the case of a partnership, an instrument may be served on or given to a partner or a person having control or management of the partnership business.

(6) In paragraph (3), "proper address" means—

(a) in the case of a body corporate, a director of the body or the secretary or clerk—

(i) the registered or principal office of that body, or

(ii) the email address of the director, secretary or clerk;

(b) in the case of a partnership or a partner or person having control or management of the partnership business—

(i) the principal office of the partnership, or

(ii) the email address of a partner or a person having that control or management;

(c) in any other case, a person's last known address, which includes an email address.

(7) For the purposes of paragraph (6), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.

(8) A form provided by the regulator which specifies an electronic address for submission may be submitted electronically to that address.

(9) A form provided by the regulator for completion and submission through a website may be submitted through that site.

# PART 2

## Environmental permits

### CHAPTER 1

### Application to the Crown and requirement for an environmental permit

**Application to the Crown**

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

**Requirement for an environmental permit**

**12.**—(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.

(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.

## CHAPTER 2

## Grant of an environmental permit

### Grant of an environmental permit

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

(a) the operation of a regulated facility, and

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

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

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

### Content and form of an environmental permit

**14.**—(1) An environmental permit must specify—

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

(b) the operator of that regulated facility.

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

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

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

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

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

(a) the operation of mobile plant, or

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

### Conditions in relation to certain land

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) is receiving the rack rent of the land, whether on the person's own account or as agent or trustee for another person, or

(b) would receive the rack rent if the land were let at a rack rent.

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

**16.** If—

(a) an environmental permit ("permit A") authorises the operation of mobile plant on the site of another regulated facility the operation of which is authorised under a separate environmental permit ("permit B"), and

(b) there is an inconsistency between the requirements imposed by permit A and those imposed by permit B,

the requirements imposed by permit B prevail.

**Single site permits etc.**

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

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

(a) of more than one mobile plant,

(b) of more than one radioactive substances activity described in paragraph 11(5) of Part 2 of Schedule 23,

(c) of more than one regulated facility on the same site,

(d) of more than one standard facility on more than one site,

(e) of more than one flood risk activity on more than one site, or

(f) of more than one radioactive substances activity described in paragraph 11(6) of Part 2 of Schedule 23 on more than one site, where all such activities are in respect of the use or potential use of the same premises for underground disposal (within the meaning of paragraph 11(7) of that Schedule).

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

**Consolidation of an environmental permit**

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

(a) more than one mobile plant,

(b) more than one flood risk activity on the same site or on more than one site,

(c) more than one standard facility, or

(d) more than one regulated facility on the same site.

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

(a) applying to the same regulated facilities, and

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

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

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

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

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

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

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

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

**Subsistence of an environmental permit**

**19.** Once granted, an environmental permit continues in force until—

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

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

(i) regulation 24, or

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

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

(i) regulation 18(2);

(ii) regulation 22(5);

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

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

## CHAPTER 3

## Variation, transfer, revocation and surrender of an environmental permit

### Variation of an environmental permit

**20.**—(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 of the United Kingdom under the EU Treaties, 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 of the United Kingdom under the EU Treaties, or

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

**Transfer of an environmental permit**

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) A notification must—

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

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

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

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

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

(8) If—

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

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

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

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

**Revocation of an environmental permit: general**

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

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

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

(a) the reasons for the revocation,

(b) in the case of a partial revocation—

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

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

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

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

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

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

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

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

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

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

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

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

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

**Revocation of an environmental permit: steps to be taken after the revocation takes effect**

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

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

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

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

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

(b) mobile plant;

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

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

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

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

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

(a) regulation 20,

(b) regulation 36, and

(c) the offence in regulation 38(2).

**Notification of the surrender of an environmental permit**

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

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

(b) mobile plant;

(c) a solvent emission activity;

(d) a stand-alone water discharge activity or stand-alone groundwater activity;

(e) a stand-alone flood risk activity, except where the environmental permit has been granted subject to a condition that is to operate beyond the time when the activity is complete.

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

(3) A notification must—

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

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

(c) specify the date on which the surrender is to take place, which—

(i) in all cases, must not be less than 20 working days after the date on which the notification is given, and

(ii) in the case of a stand-alone flood risk activity where the regulator has specified in the environmental permit a date by which the activity must be completed, must not be earlier than the day after that date.

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

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

(6) The regulator must serve a notice on the operator specifying—

(a) the regulator's view under paragraph (5),

(b) the variation, and

(c) the date the variation takes effect.

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

**Application for the surrender of an environmental permit**

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

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

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

## CHAPTER 4

## Standard rules

**Preparation and revision of standard rules**

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

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

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

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

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

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

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

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

**Standard rules as conditions of an environmental permit**

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

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

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

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

**Notification of revisions of standard rules**

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

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

(a) of the proposed revisions,

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

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

(3) The revised rules take effect—

(a) in relation to a relevant environmental permit, 3 months after the date when the revised rules are published under regulation 26(5), except where the revisions comprise only minor administrative changes (in which case they take effect in accordance with sub-paragraph (b));

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

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

**Revocation of standard rules**

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

**Variation of an environmental permit: revocation of standard rules**

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

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

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

(a) remove the standard rules term, and

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

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

## CHAPTER 5

## Appeals in relation to environmental permits

**Appeals to an appropriate authority**

**31.**—(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.

# PART 3

## Discharge of functions in relation to a regulated facility

**Discharge of functions**

**32.**—(1) Subject to paragraphs (2) to (7), and paragraph 12 of Part 2 of Schedule 23—

(a) functions in relation to a regulated facility that is or will be operated in England are exercisable by the Agency;

(b) functions in relation to a regulated facility that is or will be operated in Wales are exercisable by the NRBW.

(2) Subject to paragraph (4), in relation to waste mobile plant—

(a) if the principal place of business of the operator is in England, functions are exercisable by the Agency;

(b) if the principal place of business of the operator is in Wales, functions are exercisable by the NRBW;

(c) if the principal place of business of the operator is not in England or in Wales, functions are exercisable by—

(i) the appropriate agency that granted the environmental permit authorising the operation of that waste mobile plant, or

(ii) if no permit has been granted, the appropriate agency in whose area waste mobile plant is first intended to be operated.

(3) Paragraph (4) applies—

(a) where by virtue of paragraph (2) functions in relation to waste mobile plant are exercisable by the Agency, and that waste mobile plant is operated at a site in Wales, or

(b) where by virtue of paragraph (2) functions in relation to waste mobile plant are exercisable by the NRBW, and that waste mobile plant is operated at a site in England.

(4) Where this paragraph applies, functions under regulations 36, 37 and 57 and paragraph 9 of Schedule 23 are exercisable in relation to the waste mobile plant referred to in paragraph (3) by both the Agency and the NRBW.

(5) Functions in relation to a regulated facility of the following description or class are exercisable by the local authority in whose area the regulated facility is or will be operated—

(a) a Part A(2) installation;

(b) a Part B installation or Part B mobile plant, but not in respect of any of the following regulated facilities carried on at the installation or by means of mobile plant—

(i) a waste operation that is not itself a Part B activity;

(ii) a mining waste operation;

(iii) a water discharge activity;

(iv) a groundwater activity;

(c) a small waste incineration plant;

(d) a solvent emission activity.

(6) If the principal place of business of the operator of Part B mobile plant is in England or in Wales, functions in relation to that regulated facility are exercisable by the local authority in whose area the place of business is.

(7) If the principal place of business of the operator of Part B mobile plant is not in England or in Wales, functions in relation to that regulated facility are exercisable by—

(a) the local authority which granted the environmental permit authorising the operation of the regulated facility, or

(b) if no permit has been granted, the local authority in whose area the regulated facility is first operated, or is intended to be first operated.

(8) In this regulation, "functions" includes relevant functions.

**Direction to a regulator: discharge of functions by a different regulator**

**33.**—(1) An appropriate authority may direct—

(a) the appropriate agency to exercise such local authority functions as are, and for such period as is, specified in the direction, or

(b) a local authority to exercise such appropriate agency functions as are, and for such period as is, specified in the direction.

(2) A direction under this regulation may include such saving and transitional provisions as the appropriate authority considers necessary or expedient.

(3) A direction under this regulation may be made in respect of a description or class of regulated facility or a specific regulated facility.

(4) A direction under paragraph (1)(b) may only be made in respect of—

(a) an installation, but not in respect of a mining waste operation carried on at an installation, or

(b) mobile plant.

(5) When giving a direction under this regulation the appropriate authority must notify the persons in paragraph (6) of the direction and publish the direction on its website.

(6) The persons are—

(a) where the appropriate authority is the Secretary of State, the Agency,

(b) where the appropriate authority is the Welsh Ministers, the NRBW, and

(c) any local authority or other person whom the appropriate authority considers is affected by the direction.

(7) An appropriate authority must not comply with a duty under paragraph (5) in a case where the authority considers that to do so would be contrary to the interests of national security.

(8) In paragraph (1) (ignoring any direction under this regulation)—

"appropriate agency functions" means functions which are exercisable by the appropriate agency by virtue of regulation 32 or paragraph 2 of Schedule 2;

"local authority functions" means functions which are exercisable by a local authority by virtue of regulation 32 or paragraph 2 of Schedule 2.

**Review of environmental permits and inspection of regulated facilities**

**34.**—(1) The regulator must periodically review environmental permits.

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

**Specific provisions applying to environmental permits**

**35.**—(1) Schedules 7 to 25 have effect.

(2) To the extent that the operation of a regulated facility of a description or class mentioned in any of Schedules 7 to 25 requires an environmental permit, the requirements of that Schedule apply in relation to that regulated facility.

# PART 4

## Enforcement and offences

**Enforcement notices**

**36.**—(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.

**Suspension notices**

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

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

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

(a) risk of serious flooding;

(b) risk of serious detrimental impact on drainage;

(c) risk of serious harm to the environment.

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

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

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

(a) risk of flooding;

(b) risk of detrimental impact on drainage;

(c) risk of harm to the environment.

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

(a) specify—

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

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

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

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

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

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

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

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

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

(a) specify the reason for the suspension,

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

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

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

(11) Where a suspension notice has the effect of preventing waste of a specified description being accepted at a regulated facility, the notice may require the operator of that facility to display appropriate signs at such places as may be specified in the notice, informing the public that no further waste of a specified description may be accepted at that facility.

(12) The regulator—

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

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

**Offences**

**38.**—(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.

(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.

**Penalties and enforcement undertakings**

**39.**—(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 12 months, 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 12 months, 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 the commencement of section 154(1) of the Criminal Justice Act 2003(**a**), paragraphs (1)(a) and (2)(a) have effect as if for "12 months" 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.

**Defences**

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

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

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

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

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

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

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

**Offences by bodies corporate**

**41.**—(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.

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(**a**) 2003 c. 44. The power to create penalties in section 2 of, and paragraph 25 of Schedule 1 to, the Pollution Prevention and Control Act 1999 (c. 24) is modified pending the commencement of section 154(1) of the Criminal Justice Act 2003 by section 105 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), as amended by section 88(1) of the Climate Change Act 2008 (c. 27).

(**b**) Section 91A was inserted by section 58 of the 1995 Act.

**Enforcement by the High Court**

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

**Admissibility of evidence**

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

**Power of court to order cause of offence to be remedied**

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

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

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

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

# PART 5

## Public registers

**Interpretation of this Part**

**45.** In this Part—

"final confidentiality decision" means—

(a) a determination under regulation 50, or

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

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

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

**Duty of the regulator to maintain a public register**

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

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

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

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

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

(6) The regulator must—

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

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

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

**Exclusion from public registers of information affecting national security**

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

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

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

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

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

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

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

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

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

**Exclusion from public registers of confidential information**

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

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

(b) receives notice from the information subject which—

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

(ii) gives reasons for that view.

(2) The conditions are that—

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

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

(i) a final confidentiality decision that the information should be included on the register has been made, or

(ii) the appropriate authority has given a direction under regulation 56(1) which requires the information to be included on the register.

**Procedure if the regulator considers that information may be confidential**

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

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

(a) give notice to the regulator consenting to the regulator including the information on the register, or

(b) give an objection notice to the regulator.

**Duty to determine confidentiality**

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

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

(b) it receives an objection notice.

**Determination of confidentiality**

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

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

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

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

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

(i) the information is commercial or industrial information,

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

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

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

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

**Procedure following a determination**

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

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

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

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

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

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

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

(a) it has given notice of the determination, or

(b) a notice under paragraph (2) resulting in a deemed determination is given,

but must include it after the expiry of that period if notice of appeal has not been given.

**Appeals in relation to confidentiality**

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

(2) A notice of appeal must—

(a) be in writing,

(b) include a statement of the grounds of appeal,

(c) state whether the information subject wishes the appeal to be in the form of a hearing or to be disposed of through written representations, and

(d) be copied to the regulator.

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

(4) The appropriate authority—

(a) may give the information subject and the regulator an opportunity of appearing before and being heard by a person appointed by it, and

(b) must do so in a case where the notice of appeal states that the information subject wishes the appeal to be in the form of a hearing.

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

**Consequences of an appeal**

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

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

**Reconsideration of confidentiality**

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

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

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

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

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

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

**Directions of the appropriate authority in relation to confidentiality**

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

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

# PART 6

## Powers and functions of the regulator and the appropriate authority

**Power of the regulator to prevent or remedy pollution**

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

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

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

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

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

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

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

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

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

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

(a) an operator,

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

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

**Power of the regulator to prevent or remedy effects of flood risk activities**

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

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

(a) risk of serious flooding;

(b) risk of serious detrimental impact on drainage;

(c) risk of serious harm to the environment.

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

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

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

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

**Appropriate agency: notices in relation to emissions to water**

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

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

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

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

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

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

**Appropriate agency: public participation statement**

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

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

(3) The appropriate agency must—

(a) keep the statement under review,

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

(c) publish any revised statement.

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

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

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

(a) regulation 26;

(b) regulation 29;

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

**Power to require the provision of information**

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

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

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

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

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

(a) an obligation of the United Kingdom under the EU Treaties, or

(b) an international obligation of the United Kingdom,

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

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

**Directions to regulators, exemption registration authorities and exemption authorities: general**

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

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

(a) specified powers,

(b) its powers in specified circumstances, or

(c) its powers in a specified manner.

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

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

**Reference of applications to an appropriate authority**

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

(2) The regulator must—

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

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

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

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

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

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

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

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

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

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

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

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

(b) for the variation of an environmental permit.

**Directions to the appropriate agency: installations outside the United Kingdom**

**64.**—(1) This regulation applies where an appropriate authority receives information pursuant to Article 26(1) of the Industrial Emissions Directive in relation to the operation of an installation outside the United Kingdom which is likely to have a significant negative effect on the environment of England or Wales.

(2) For the purpose of complying with Article 26(2) of the Industrial Emissions Directive, the appropriate authority must direct the appropriate agency to take such steps as it considers appropriate to—

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

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

**Guidance to regulators, exemption registration authorities and exemption authorities**

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

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

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

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

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

(i) for the grant of an environmental permit,

(ii) for the variation of an environmental permit,

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

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

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

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

(2) A scheme may in particular—

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

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

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

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

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

(a) in exercising its functions under these Regulations;

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

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

(ii) specified in a direction under regulation 33;

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

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

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

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

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

**Plans relating to emissions**

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

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

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

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

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

(4) In this regulation—

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

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

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

**Consultation in relation to works affecting flood and coastal erosion risks**

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

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

**Functions with respect to flood risk activities**

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

(**a**) S.I. 2007/2325. The date of 31st March 2016 was the day before S.I. 2007/2325 was revoked by S.I. 2015/1973, with a saving provision in relation to where its provisions were referred to in connection with the definition of terms in other instruments.
(**b**) S.I. 2015/1973.
(**c**) 2010 c. 29.

# PART 7

## Miscellaneous provisions

### CHAPTER 1

### Interpretation

**Interpretation of this Part**

**70.** In this Part—

"existing" means in force at the relevant time;

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

### CHAPTER 2

### Death of sole operator

**Death of sole operator**

**71.**—(1) This regulation applies if—

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

(b) A dies.

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

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

(b) vests in A's personal representatives,

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

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

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

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

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

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

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

(a) is withdrawn, or

(b) on determination, is refused.

### CHAPTER 3

### Repeal, revocations, saving and amendments

**Repeal**

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

(2) Those provisions are—

(a) paragraph 5 of Schedule 4,

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

(c) section 51.

**Revocations**

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

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

**Saving**

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

(2) In paragraph (1), "waste management licence" means a licence granted under section 35 of the 1990 Act.

**Consequential amendments**

**75.** Schedule 29 (consequential amendments) has effect.

**Amendment of the Transfrontier Shipment of Waste Regulations 2007**

**76.** For regulation 16 of the Transfrontier Shipment of Waste Regulations 2007(**b**), substitute—

"**The Waste (England and Wales) Regulations 2011**

**16.** The reference to a waste management plan in regulation 7 of the Waste (England and Wales) Regulations 2011(**c**) includes a waste management plan made under this Part.".

CHAPTER 4

Transitional provisions

**Transitional provisions: general**

**77.**—(1) Anything being done under the 2010 Regulations at the relevant time is taken as being done under these Regulations.

(2) Anything done under the 2010 Regulations continues to have effect but is taken to have been done under these Regulations on the date on which it was done under the 2010 Regulations, including (but not limited to) the following—

(a) an existing enforcement notice under the 2010 Regulations is taken to be an enforcement notice;

(b) an existing suspension notice under the 2010 Regulations is taken to be a suspension notice;

(c) an existing revocation notice under the 2010 Regulations is taken to be a revocation notice;

(d) an existing landfill closure notice under the 2010 Regulations is taken to be a landfill closure notice;

(e) an existing prohibition notice under the 2010 Regulations is taken to be a prohibition notice;

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(**a**) S.I. 2003/2635, amended by S.I. 2007/3538; there are other amending instruments but none is relevant.
(**b**) S.I. 2007/1711, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**c**) S.I. 2011/988, to which there are amendments not relevant to these Regulations.

(f) an application for the grant, variation, transfer or surrender of an environmental permit make under the 2010 Regulations that has not been determined by the relevant time is taken to be made under these Regulations;

(g) a decision made, or deemed to have been made, by a regulator or appropriate authority under the 2010 Regulations is taken to be made under these Regulations;

(h) an existing direction given, or deemed to have been given, to a regulator by the appropriate authority under the 2010 Regulations is taken to be given under these Regulations;

(i) a notification given under the 2010 Regulations that has not taken effect by the relevant time is taken to be given under these Regulations;

(j) an appeal made under the 2010 Regulations that has not been determined by the relevant time is taken to be made under these Regulations, with the notice of appeal taken to be given on the date on which the appeal was made under the 2010 Regulations.

(3) An environmental permit under the 2010 Regulations in force at the relevant time—

(a) becomes an environmental permit authorising the operation of a regulated facility under these Regulations, with references to provisions of the 2007 Regulations or the 2010 Regulations taken to be references to the equivalent provisions of these Regulations, and

(b) has effect subject to any conditions that applied to it at the relevant time.

(4) An appeal may be made under these Regulations against a notice mentioned in paragraph (2)(a) to (e) or a decision mentioned in paragraph (2)(g) if, by the relevant time, the time for making an appeal under the 2010 Regulations had not expired, with the applicable time limit for giving notice of appeal running from the date on which the notice was served, or the decision was made, under the 2010 Regulations.

(5) Despite paragraphs (1) and (2), an exemption under paragraph 17 of Section 2 of Chapter 3 of Part 1 of Schedule 3 of the 2010 Regulations (crushing waste fluorescent tubes (T17)) ceases to have effect.

**Public registers**

**78.**—(1) Any information that, at the relevant time, was contained in a public register maintained by a regulator under the 2010 Regulations, or was deemed to be information kept on that register, is taken to be information contained in the public register maintained by the regulator under these Regulations.

(2) Any information that, at the relevant time, was within a regulator's possession for the purposes of regulation 46 of the 2010 Regulations but was not entered on a public register under those Regulations is taken to be in the regulator's possession for the purposes of these Regulations and must be entered on the register as soon as reasonably practicable.

(3) Any information excluded from a public register pursuant to an existing direction under regulation 47(1) of the 2010 Regulations is taken to be notified under regulation 47(2) of these Regulations.

**Site plans not required for existing permits etc.**

**79.** Regulation 14(4) does not apply in relation to a regulated facility to which, at the relevant time, regulation 70 of the 2010 Regulations applied.

CHAPTER 5

Review

**Review: England**

**80.**—(1) The Secretary of State, in relation to England, must from time to time—

(a) carry out a review of the regulatory provisions in these Regulations, and

(b) publish a report setting out the conclusions of the review.

(2) In carrying out a review of any regulatory provision which implements an obligation in any of the following Directives, the Secretary of State must have regard to how the obligation is implemented in other member States—

(a) the Asbestos Directive,

(b) the Basic Safety Standards Directive,

(c) the Batteries Directive,

(d) the End-of-Life Vehicles Directive,

(e) the Energy Efficiency Directive,

(f) the Groundwater Directive,

(g) the HASS Directive,

(h) the Industrial Emissions Directive,

(i) the Landfill Directive,

(j) the Mining Waste Directive,

(k) PVR I,

(l) PVR II,

(m) the Waste Framework Directive,

(n) the Water Framework Directive, and

(o) the WEEE Directive.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory provisions,

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provisions.

(4) The first report under this regulation must be published before the end of December 2019.

(5) Subsequent reports under this regulation must be published at intervals not exceeding 5 years.

(6) In this regulation, "regulatory provisions" has the meaning given in section 32(4) of the Small Business, Enterprise and Employment Act 2015(**a**).

*Name*
Parliamentary Under Secretary of State
Date Department for Environment, Food and Rural Affairs

*Name*
Cabinet Secretary for the Environment and Rural Affairs
Date One of the Welsh Ministers

(**a**) 2015 c. 26.

# SCHEDULE 1

Regulation 2(1)

## Activities, installations and mobile plant

## PART 1

### Interpretation and application: general

**Interpretation**

**1.**—(1) In this Schedule—

"activity" means, subject to this Part, an activity listed in Part 2 of this Schedule;

"installation" means—

(a) a stationary technical unit where one or more activities are carried on, and

(b) any other location on the same site where any other directly associated activities are carried on,

and references to an installation include references to part of an installation;

"net rated thermal input" means the rate at which fuel can be burned at the maximum continuous rating of the appliance, multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

(2) In sub-paragraph (1), "directly associated activity" means an operation which—

(a) has a technical connection with the activity,

(b) is carried on on the same site as the activity, and

(c) could have an effect on pollution.

**Activities falling within more than one Part description**

**2.**—(1) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(1) and a description in Part A(2), that activity must be regarded as falling only within that description which fits it most aptly.

(2) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(1) and a description in Part B, that activity must be regarded as falling only within the description in Part A(1).

(3) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(2) and a description in Part B, that activity must be regarded as falling only within the description in Part A(2).

**Application of activities falling within Part 2**

**3.** An activity is not to be taken to be an activity falling within Part 2 of this Schedule if it is—

(a) carried on in a working museum to demonstrate an industrial activity of historic interest,

(b) carried on for educational purposes in a school as defined in section 4(1) of the Education Act 1996(**a**),

(c) carried on at an installation, other than a waste incineration plant or a waste co-incineration plant, or by means of Part B mobile plant, where the installation or plant is used solely for research, development or testing of new products or processes,

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(**a**) 1996 c. 56; section 4(1) was substituted by section 51 of the Education Act 1997 (c. 44) and amended by Part 3 of Schedule 22 to the Education Act 2002 (c. 32), section 95(1) and (2) of the Childcare Act 2006 (c. 21), and paragraph 9(1) and (2)(a) of Schedule 13 to the Education Act 2011 (c. 21).

(d) the running on or within an aircraft, hovercraft, mechanically propelled road vehicle, railway locomotive or ship or other vessel of an engine which propels or provides electricity for it,

(e) the running of an engine in order to test it before it is installed or in the course of its development,

(f) carried on as a domestic activity in connection with a private dwelling, or

(g) carried on at a waste incineration plant or a waste co-incineration plant used for research, development and testing in order to improve the incineration process and which treats less than 50 tonnes of waste per year.

**Application of thresholds for Part A(1) or Part A(2) activities**

**4.** For the purposes of assessing whether an activity is above any of the thresholds for any Part A(1) activity or Part A(2) activity, where several activities falling under the same description of activity containing a threshold are operated in the same installation, the capacities of those activities must be added together.

**Operation below thresholds: effect on the installation**

**5.**—(1) Where an operator is authorised by an environmental permit to operate an installation at which Part A(1) activities, Part A(2) activities or Part B activities which are described in Part 2 of this Schedule by reference to a threshold (whether in terms of capacity or otherwise) are carried on, the installation does not cease to be a Part A(1) installation, a Part A(2) installation or a Part B installation, as the case may be, by virtue of the installation being operated below the relevant threshold unless the permit ceases to have effect in accordance with these Regulations.

**Application of Part B activities: releases into the air**

**6.**—(1) Subject to sub-paragraph (2), an activity is not to be taken to be a Part B activity within Part 2 of this Schedule if it cannot result in the release into the air of a substance listed in sub-paragraph (3) or there is no likelihood that it will result in the release into the air of any such substance except in a quantity which is so trivial that it is incapable of causing pollution or its capacity to cause pollution is insignificant.

(2) Sub-paragraph (1) does not apply to an activity which may give rise to an offensive smell noticeable outside the site where the activity is carried on.

(3) References to, or to the release into the air of, a substance listed in this paragraph are to any of the following substances—

(a) oxides of sulphur and other sulphur compounds;

(b) oxides of nitrogen and other nitrogen compounds;

(c) oxides of carbon;

(d) organic compounds and partial oxidation products;

(e) metals, metalloids and their compounds;

(f) asbestos (suspended particulate matter and fibres), glass fibres and mineral fibres;

(g) halogens and their compounds;

(h) phosphorus and its compounds;

(i) particulate matter.

**References to releases into water**

**7.**—(1) References in Part 2 of this Schedule to a substance, or to the release into water of a substance, listed in this sub-paragraph or to its release in a quantity which, in any 12-month period, is greater than the background quantity by an amount specified in this sub-paragraph are references to the following substances and amounts—

**Table**

| *Substance* | *Amount greater than the background quantity (in grams) in any 12-month period* |
|---|---|
| Mercury and its compounds | 200 (expressed as metal) |
| Cadmium and its compounds | 1,000 (expressed as metal) |
| All isomers of hexachlorocyclohexane | 20 |
| All isomers of DDT | 5 |
| Pentachlorophenol and its compounds | 350 (expressed as PCP) |
| Hexachlorobenzene | 5 |
| Hexachlorobutadiene | 20 |
| Aldrin | 2 |
| Dieldrin | 2 |
| Endrin | 1 |
| Polychlorinated Biphenyls | 1 |
| Dichlorvos | 0.2 |
| 1, 2-Dichloroethane | 2,000 |
| All isomers of trichlorobenzene | 75 |
| Atrazine | 350(*) |
| Simazine | 350(*) |
| Tributyltin compounds | 4 (expressed as TBT) |
| Triphenyltin compounds | 4 (expressed as TPT) |
| Trifluralin | 20 |
| Fenitrothion | 2 |
| Azinphos-methyl | 2 |
| Malathion | 2 |
| Endosulfan | 0.5 |

(*) Where both Atrazine and Simazine are released, the figure for both substances in aggregate is 350 grams.

(2) In sub-paragraph (1), "background quantity" means, in relation to the release of a substance resulting from an activity, such quantity of that substance as is present in—

(a) water supplied to the site where the activity is carried on,

(b) water abstracted for use in the activity, and

(c) precipitation onto the site on which the activity is carried on.

**References to certain substances**

**8.**—(1) References in Part 2 of this Schedule to a substance listed in this paragraph are to any of the following substances—

(a) alkali metals and their oxides and alkaline earth metals and their oxides;

(b) organic solvents;

(c) azides;

(d) halogens and their covalent compounds;

(e) metal carbonyls;

(f) organo-metallic compounds;

(g) oxidising agents;

(h) polychlorinated dibenzofuran and any congener thereof;

(i) polychlorinated dibenzo-p-dioxin and any congener thereof;

(j) polyhalogenated biphenyls, terphenyls and naphthalenes;

(k) phosphorus;

(l) pesticides.

(2) In sub-paragraph (1), "pesticide" means any chemical substance or preparation prepared or used for destroying any pest, including those used for—

(a) protecting plants or wood or other plant products from harmful organisms,

(b) regulating the growth of plants,

(c) giving protection against harmful creatures or rendering such creatures harmless,

(d) controlling organisms with harmful or unwanted effects on water systems, buildings or other structures, or on manufactured products, or

(e) protecting animals against ectoparasites.

# PART 2

## Activities

### CHAPTER 1

### Energy activities

#### SECTION 1.1

*Combustion activities*

**Part A(1)**

(a) Burning any fuel in an appliance with a rated thermal input of 50 or more megawatts.

**Interpretation and application of Part A(1)**

**1.** For the purpose of Part A(1) of this Section, where two or more appliances with an aggregate rated thermal input of 50 or more megawatts are operated on the same site by the same operator, those appliances must be treated as a single appliance with a rated thermal input of 50 or more megawatts.

**2.** Nothing in this Part of this Section applies to burning fuels in an appliance installed on an offshore platform situated on, above or below those parts of the sea adjacent to England and Wales from the low water mark to the seaward baseline of the United Kingdom territorial sea.

**3.** In paragraph 2, "offshore platform" means any fixed or floating structure which—

(a) is used for the purposes of or in connection with the production of petroleum, and

(b) in the case of a floating structure, is maintained on a station during the course of production,

but does not include any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs.

**4.** In paragraph 3, "petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

**5.** Nothing in this Part of this Section applies to burning fuels in an appliance installed on a gas storage or unloading platform as defined in regulation 2 of the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013(**a**).

**Part B**

Unless falling within Part A(1) of this Section—

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(**a**) S.I. 2013/971.

(a) Burning any fuel in—

(i) a boiler,

(ii) a furnace,

(iii) a gas turbine, or

(iv) a compression ignition engine,

with a net rated thermal input of 20 or more megawatts, but a rated thermal input of less than 50 megawatts.

(b) Burning any waste oil in an appliance with a rated thermal input of less than 3 megawatts.

**Interpretation and application of Part B**

**1.** Part B does not apply to any activity falling within Part A(1) of Section 5.1.

**2.** For the purpose of paragraph (a) of Part B of this Section, where two or more appliances with an aggregate net rated thermal input of 20 or more megawatts are operated on the same site by the same operator, those appliances must be treated as a single appliance with a net rated thermal input of 20 or more megawatts.

SECTION 1.2

*Gasification, liquefaction and refining activities*

**Part A(1)**

(a) Refining gas where this is likely to involve the use of 1,000 or more tonnes of gas in any 12-month period.

(b) Operating coke ovens.

(c) Gasification or liquefaction of—

(i) coal, or

(ii) other fuels in installations with a total rated thermal input of 20 or more megawatts.

(d) Refining mineral oils.

(e) The loading, unloading, handling or storage of, or the physical, chemical or thermal treatment of—

(i) crude oil;

(ii) stabilised crude petroleum.

(f) Activities involving the pyrolysis, carbonisation, distillation, partial oxidation or other heat treatment of—

(i) coal (other than the drying of coal),

(ii) lignite,

(iii) oil,

(iv) other carbonaceous material, or

(v) mixtures of any of these,

otherwise than with a view to making charcoal.

(g) Activities involving the liquefaction or gasification of other carbonaceous material.

**Interpretation and application of Part A(1)**

**1.** Part A(1)(f) does not include—

(a) the use of any substance as a fuel;

(b) the incineration in a waste incineration plant or waste co-incineration plant of any substance as a waste;

(c) any activity for the treatment of sewage or sewage sludge;

(d) the anaerobic digestion of biodegradable material, whether or not containing or comprising waste.

**2.** In Part A(1)(f), the heat treatment of oil, other than distillation, does not include the heat treatment of waste oil or waste emulsions containing oil in order to recover the oil from aqueous emulsions.

**3.** In Part A(1), "carbonaceous material" includes such materials as charcoal, coke, peat, rubber and wood, but does not include wood which has not been chemically treated or sewage.

**4.** In paragraph (1)(d), "anaerobic digestion" means the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable materials which—

(a) is carried on under controlled anaerobic conditions,

(b) produces a methane-rich gas mixture, and

(c) results in stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land.

**Part A(2)**

(a) Refining gas where this activity does not fall within Part A(1)(a) of this Section.

**Part B**

(a) Blending odorant for use with natural gas or liquefied petroleum gas.

(b) The storage of petrol in stationary storage tanks at a terminal, or the loading or unloading at a terminal of petrol into or from road tankers, rail tankers or inland waterway vessels.

(c) The unloading of petrol into stationary storage tanks at a service station, if the total quantity of petrol unloaded into such tanks at the service station in any 12-month period is likely to be 500$m^3$ or more.

(d) Motor vehicle refuelling activities at an existing service station after the prescribed date, if the throughput of petrol at that service station in any 12-month period is or is likely to be in excess of 3,000$m^3$.

(e) Motor vehicle refuelling activities at a new service station, if the throughput of petrol at that service station in any 12-month period is, or is intended to be in excess of 500$m^3$.

(f) Motor vehicle refuelling activities at a new service station if the throughput of petrol at that service station in any 12-month period is, or is intended to be in excess of 100$m^3$ and it is situated under permanent living quarters or working areas.

**Interpretation of Part B**

**1.** In Part B—

"existing service station" means a service station—

(a) which was put into operation, or

(b) for which planning permission under the Town and Country Planning Act 1990(**a**) was granted,

before 1st January 2010;

"inland waterway vessel" means a vessel, other than a sea-going vessel, having a total dead weight of 15 or more tonnes;

"new service station" means—

(a) a service station for which planning permission under the Town and Country Planning Act 1990 was granted on or after 1st January 2010 and—

(i) in relation to paragraph (e) of Part B, it is put into operation on or after 1st January 2010;

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(**a**) 1990 c. 8.

(ii) in relation to paragraph (f) of Part B, it is put into operation on or after 1st January 2012;

(b) any existing service station which, on or after 1st January 2012, undergoes a major refurbishment, which has the same meaning as in PVR II;

"petrol" means any petroleum derivative (other than liquefied petroleum gas), with or without additives, having a Reid vapour pressure of 27.6 or more kilopascals, which is intended for use as a fuel for motor vehicles;

"prescribed date" means 31st December 2011 if the throughput is in excess of 3,500$m^3$ and 31st December 2018 if the throughput is in excess of 3,000$m^3$;

"service station" means any premises where petrol is dispensed to motor vehicle fuel tanks from stationary storage tanks but does not include any service station exclusively used in association with the construction and delivery of new motor vehicles;

"terminal" means any premises which are used for the storage and loading of petrol into road tankers, rail tankers or inland waterway vessels.

**2.** Any other expressions used in Part B which, in relation to paragraphs (b) and (c), are also used in PVR I or, in relation to paragraphs (d) to (f), are also used in PVR II, have the same meaning as in those Directives.

## CHAPTER 2

## Production and processing of metals

### SECTION 2.1

### *Ferrous metals*

**Interpretation of Section 2.1**

**1.** In this Section, "ferrous alloy" means an alloy of which iron is the largest constituent, or equal to the largest constituent, by weight, whether or not that alloy also has a non-ferrous metal content greater than any percentage specified in Section 2.2.

**Part A(1)**

(a) Roasting or sintering metal ore, including sulphide ore, or any mixture of iron ore with or without other materials.

(b) Producing, melting or refining iron or steel or any ferrous alloy, including continuous casting, except where the only furnaces used are—

(i) electric arc furnaces with a designed holding capacity of less than 7 tonnes, or

(ii) cupola, crucible, reverberatory, rotary, induction, vacuum, electro-slag or resistance furnaces.

(c) Processing ferrous metals and their alloys by using hot-rolling mills with a production capacity of more than 20 tonnes of crude steel per hour.

(d) Loading, unloading or otherwise handling or storing more than 500,000 tonnes in total in any 12-month period of iron ore, except in the course of mining operations, or burnt pyrites.

**Part A(2)**

(a) Unless falling within Part A(1)(b) of this Section, producing pig iron or steel, including continuous casting, in a plant with a production capacity of more than 2.5 tonnes per hour.

(b) Operating hammers in a forge, the energy of which is more than 50 kilojoules per hammer, where the calorific power used is more than 20 megawatts.

(c) Applying protective fused metal coatings with an input of more than 2 tonnes of crude steel per hour.

(d) Casting ferrous metal at a foundry with a production capacity of more than 20 tonnes per day.

**Part B**

(a) Unless falling within Part A(1)(b) of this Section, producing pig iron or steel, including continuous casting, in a plant with a production capacity of 2.5 or less tonnes per hour.

(b) Unless falling within Part A(2)(a) or (d) of this Section, producing, melting or refining iron or steel or any ferrous alloy (other than producing pig iron or steel, including continuous casting) using—

(i) one or more electric arc furnaces, none of which has a designed holding capacity of 7 or more tonnes, or

(ii) a cupola, crucible, reverberatory, rotary, induction, vacuum, electro-slag or resistance furnace.

(c) Desulphurising iron, steel or any ferrous alloy.

(d) Heating iron, steel or any ferrous alloy (whether in a furnace or other appliance) to remove grease, oil or any other non-metallic contaminant (including such operations as the removal by heat of plastic or rubber covering from scrap cable), unless—

(i) it is carried on in one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a rated thermal input of less than 0.2 megawatts,

(ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant, and

(iii) it is not related to any other activity falling within this Part of this Section.

(e) Unless falling within Part A(1) or Part A(2) of this Section, casting iron, steel or any ferrous alloy from deliveries of 50 or more tonnes of molten metal.

SECTION 2.2

*Non-ferrous metals*

**Interpretation and application of Section 2.2**

**1.** Part A(1) and Part B do not apply to hand soldering, flow soldering or wave soldering.

**Part A(1)**

(a) Unless falling within Part A(2) of this Section, producing non-ferrous metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic activities.

(b) Melting, including making alloys of, non-ferrous metals, including recovered products and the operation of non-ferrous metal foundries where—

(i) the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals, and

(ii) any furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 or more tonnes.

(c) Producing, melting or recovering (whether by chemical means or by electrolysis or by the use of heat) cadmium or mercury or any alloy containing more than 0.05 per cent by weight of either of those metals or both in aggregate.

**Part A(2)**

(a) Melting, including making alloys of, non-ferrous metals, including recovered products and operating of non-ferrous metal foundries where the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals, and—

(i) no furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 or more tonnes, or

(ii) the plant uses a vacuum furnace of any design holding capacity.

**Part B**

(a) Melting, including making alloys of, non-ferrous metals (other than tin or any alloy which in molten form contains 50 per cent or more by weight of tin), including recovered products (such as refining or foundry casting) in plant with a melting capacity of 4 tonnes or less per day for lead or cadmium or 20 tonnes or less per day for all other metals.

(b) Heating in a furnace or any other appliance any non-ferrous metal or non-ferrous metal alloy for the purpose of removing grease, oil or any other non-metallic contaminant, including such operations as the removal by heat of plastic or rubber covering from scrap cable, if not related to another activity described in this Part of this Section, unless—

(i) it involves the use of one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a net rated thermal input of less than 0.2 megawatts, and

(ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant.

(c) Melting zinc or a zinc alloy in conjunction with a galvanising activity at a rate of 20 or less tonnes per day.

(d) Melting zinc, aluminium or magnesium or an alloy of one or more of these metals in conjunction with a die-casting activity at a rate of 20 or less tonnes per day.

(e) Unless falling within Part A(1) or Part A(2) of this Section, the separation of copper, aluminium, magnesium or zinc from mixed scrap by differential melting.

**Interpretation and application of Part B**

**1.** When determining the extent of an installation carrying on an activity within Part B(e), any location where the associated storage or handling of scrap which is to be heated as part of that activity is carried on, other than a location where scrap is loaded into a furnace, is to be ignored.

**2.** In Part B, "non-ferrous metal alloy" means an alloy which is not a ferrous alloy, as defined in Section 2.1.

SECTION 2.3

*Surface treating metals and plastic materials*

**Part A(1)**

(a) Unless falling within Part A(2) of this Section, surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than $30m^3$.

**Part A(2)**

(a) Surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than $30m^3$ and where the activity is carried on at the same installation as one or more activities falling within—

(i) Part A(2) or Part B of Section 2.1,

(ii) Part A(2) or Part B of Section 2.2, or

(iii) Part A(2) or Part B of Section 6.4.

**Part B**

(a) Any process for the surface treatment of metal which is likely to result in the release into air of any acid-forming oxide of nitrogen and which does not fall within Part A(1) or Part A(2) of this Section.

## CHAPTER 3

## Mineral industries

### SECTION 3.1

*Production of cement and lime*

**Part A(1)**

(a) Producing cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other kilns with a production capacity exceeding 50 tonnes per day.

(b) Producing lime or magnesium oxide in kilns with a production capacity of more than 50 tonnes per day.

**Part A(2)**

(a) Grinding cement clinker.

**Part B**

(a) Storing, loading or unloading cement or cement clinker in bulk prior to further transportation in bulk.

(b) Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready-mixed concrete and the manufacture of concrete blocks and other cement products.

(c) Slaking lime for the purpose of making calcium hydroxide or calcium magnesium hydroxide.

(d) Producing lime or magnesium oxide where the activity does not involve the heating of more than 50 tonnes per day of calcium carbonate or calcium magnesium carbonate or both in aggregate.

### SECTION 3.2

*Activities involving asbestos*

**Interpretation of Section 3.2**

**1.** In this Section "asbestos" means any of the following fibrous silicates: actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.

**Part A(1)**

(a) Producing asbestos or manufacturing products based on or containing asbestos.

(b) Stripping asbestos from railway vehicles except—

(i) in the course of the repair or maintenance of the vehicle,

(ii) in the course of recovery operations following an accident, or

(iii) where the asbestos is permanently bonded in cement or in any other material (including plastic, rubber or resin).

**Part B**

(a) Unless related to an activity falling within Part A(1) of this Section, the industrial finishing of—

(i) asbestos cement,

(ii) asbestos cement products,

(iii) asbestos fillers,

(iv) asbestos filters,

(v) asbestos floor coverings,

(vi) asbestos friction products,

(vii) asbestos insulating board,

(viii) asbestos jointing, packaging or reinforcement material,

(ix) asbestos packing,

(x) asbestos paper or card, or

(xi) asbestos textiles.

SECTION 3.3

*Manufacturing glass and glass fibre*

**Part A(1)**

(a) Manufacturing glass fibre in plant with a melting capacity exceeding 20 tonnes per day.

**Part A(2)**

(a) Manufacturing glass, unless falling within Part A(1) of this Section, where the melting capacity of the plant is more than 20 tonnes per day.

**Part B**

Unless falling within Part A(1) or Part A(2) of this Section—

(a) Manufacturing glass at any location with the capacity to make 5,000 or more tonnes of glass in any 12-month period, and any activity involving the use of glass which is carried on at any such location in conjunction with its manufacture.

(b) Manufacturing glass where the use of lead or any lead compound is involved.

(c) Manufacturing any glass product where lead or any lead compound has been used in the manufacture of the glass except—

(i) making products from lead glass blanks, or

(ii) melting, or mixing with another substance, glass manufactured elsewhere to produce articles such as ornaments or road paint.

(d) Polishing or etching glass or glass products in the course of any manufacturing activity if—

(i) hydrofluoric acid is used, or

(ii) hydrogen fluoride may be released into the air.

(e) Manufacturing glass frit or enamel frit and its use in any activity where that activity is related to its manufacture.

SECTION 3.4

*Production of other mineral fibres*

**Part A(1)**

(a) Melting mineral substances including the production of mineral fibres in plants with a melting capacity exceeding 20 tonnes per day.

SECTION 3.5

*Other mineral activities*

**Part A(2)**

(a) Manufacturing cellulose fibre reinforced calcium silicate board using unbleached pulp.

**Part B**

(a) Unless falling within Part A(1) or Part A(2) of any Section, the crushing, grinding or other size reduction, other than the cutting of stone, or the grading, screening or heating of any designated mineral or mineral product except where the operation of the activity is unlikely to result in the release into the air of particulate matter.

(b) Any of the following activities unless carried on at an exempt location—

(i) crushing, grinding or otherwise breaking up coal, coke or any other coal product;

(ii) screening, grading or mixing coal, coke or any other coal product;

(iii) loading or unloading petroleum coke, coal, coke or any other coal product except unloading on retail sale.

(c) The crushing, grinding or other size reduction, with machinery designed for that purpose, of bricks, tiles or concrete.

(d) Screening the product of any activity described in paragraph (c).

(e) Coating road stone with tar or bitumen.

(f) Loading, unloading or storing pulverised fuel ash in bulk prior to further transportation in bulk.

(g) The fusion of calcined bauxite for the production of artificial corundum.

**Interpretation and application of Part B**

**1.** In Part B—

"coal" includes lignite;

"designated mineral or mineral product" means—

(a) clay, sand or any other naturally occurring mineral other than coal;

(b) metallurgical slag;

(c) boiler or furnace ash produced from the burning of coal, coke or any other coal product;

(d) gypsum which is a by-product of any activity;

"exempt location" means—

(a) any premises used for the sale of petroleum coke, coal, coke or any coal product where the throughput of such substances at those premises in any 12-month period is in aggregate likely to be less than 10,000 tonnes, or

(b) any premises to which petroleum coke, coal, coke or any coal product is supplied only for use there;

"retail sale" means sale to the final customer.

**2.** Part B does not apply to any activity carried on underground.

SECTION 3.6

*Ceramic production*

**Part A(1)**

(a) Manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—

(i) the kiln production capacity is more than 75 tonnes per day, or

(ii) the kiln capacity is more than $4m^3$ and the setting density is more than $300kg/m^3$,

and a reducing atmosphere is used other than for the purposes of colouration.

**Part A(2)**

(a) Unless falling within Part A(1) of this Section, manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—

(i) the kiln production capacity is more than 75 tonnes per day, or

(ii) the kiln capacity is more than $4m^3$ and the setting density is more than $300kg/m^3$.

**Part B**

(a) Unless falling within Part A(1) or A(2) of this Section, firing heavy clay goods or refractory materials (other than heavy clay goods) in a kiln.

(b) Vapour glazing earthenware or clay with salts.

**Interpretation of Part B**

**1.** In Part B—

"clay" includes a blend of clay with ash, sand or other materials;

"refractory material" means material (such as fireclay, silica, magnesite, chrome-magnesite, sillimanite, sintered alumina, beryllia and boron nitride) which is able to withstand high temperatures and to function as a furnace lining or in other similar high temperature applications.

## CHAPTER 4

## The chemical industry

**Interpretation of Chapter 4**

**1.** In Part A(1) of the Sections of this Chapter, "producing" means the production on an industrial scale by chemical or biological processing of substances or groups of substances listed in the relevant Sections.

### SECTION 4.1

### *Organic chemicals*

**Interpretation of Section 4.1**

**1.** In this Section, "pre-formulated resin or pre-formulated gel coat" means any resin or gel coat which has been formulated before being introduced into polymerisation or co-polymerisation activity, whether or not the resin or gel coat contains a colour pigment, activator or catalyst.

**Part A(1)**

(a) Producing organic chemicals such as—

(i) hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);

(ii) organic compounds containing oxygen (for example alcohols, aldehydes, ketones, carboxylic acids, esters, ethers, peroxides, phenols, epoxy resins);

(iii) organic compounds containing sulphur (for example sulphides, mercaptans, sulphonic acids, sulphonates, sulphates and sulphones and sulphur heterocyclics);

(iv) organic compounds containing nitrogen (for example amines, amides, nitrous-, nitro- or azo-compounds, nitrates, nitriles, nitrogen heterocyclics, cyanates, isocyanates, di-isocyanates and di-isocyanate prepolymers);

(v) organic compounds containing phosphorus (for example substituted phosphines and phosphate esters);

(vi) organic compounds containing halogens (for example halocarbons, halogenated aromatic compounds and acid halides);

(vii) organometallic compounds (for example lead alkyls, Grignard reagents and lithium alkyls);

(viii) plastic materials (for example polymers, synthetic fibres and cellulose-based fibres);

(ix) synthetic rubbers;

(x) dyes and pigments;

(xi) surface-active agents.

**Part B**

(a) Unless falling within Part A(1) of this Section, any activity where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12-month period of 5 or more tonnes of any di-isocyanate or of any partly polymerised di-isocyanate or, in aggregate, of both.

(b) The flame bonding or cutting with heated wires of polyurethane foams or polyurethane elastomers.

(c) Any activity for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon, where the activity is likely to involve, in any 12-month period, the polymerisation or co-polymerisation of 100 or more tonnes of unsaturated hydrocarbon.

(d) Unless falling within Part A(1) of this Section, any activity involving the use of toluene di-isocyanate or partly polymerised di-isocyanate if—

(i) less than 5 tonnes of toluene di-isocyanate monomer is likely to be used in any 12-month period, and

(ii) the activity may result in a release into the air which contains toluene di-isocyanate.

SECTION 4.2

*Inorganic chemicals*

**Part A(1)**

(a) Producing inorganic chemicals such as—

(i) gases (for example ammonia, hydrogen chloride, hydrogen fluoride, hydrogen cyanide, hydrogen sulphide, oxides of carbon, sulphur compounds, oxides of nitrogen, hydrogen, oxides of sulphur, phosgene);

(ii) acids (for example chromic acid, hydrofluoric acid, hydrochloric acid, hydrobromic acid, hydroiodic acid, phosphoric acid, nitric acid, sulphuric acid, oleum and chlorosulphonic acid);

(iii) bases (for example ammonium hydroxide, potassium hydroxide, sodium hydroxide);

(iv) salts (for example ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate, cupric acetate, ammonium phosphomolybdate);

(v) non-metals, metal oxides, metal carbonyls or other inorganic compounds (for example calcium carbide, silicon, silicon carbide, titanium dioxide);

(vi) halogens or interhalogen compounds comprising two or more of halogens, or any compound comprising one or more of those halogens and oxygen.

(b) Unless falling within any other Section, any manufacturing activity which is likely to result in the release into the air of any hydrogen halide (other than the manufacture of glass or the coating, plating or surface treatment of metal) or which is likely to result in the release into the air or water of any halogen or any of the compounds mentioned in paragraph (a)(vi) (other than the treatment of water).

(c) Unless falling within any other Section, any manufacturing activity (other than the application of a glaze or vitreous enamel) involving the use of, or the use or recovery of, any compound of any of the following elements—

(i) antimony,

(ii) arsenic,

(iii) beryllium,

(iv) gallium,

(v) indium,

(vi) lead,

(vii) palladium,

(viii) platinum,

(ix) selenium,

(x) tellurium,

(xi) thallium,

where the activity may result in the release into the air of any of those elements or compounds or the release into water of any substance listed in paragraph 7(1) of Part 1 of this Schedule.

(d) Recovering any compound of cadmium or mercury.

(e) Unless falling within any other Section, any manufacturing activity involving the use of mercury or cadmium or any compound of either element or which may result in the release into the air of either of those elements or their compounds.

(f) Unless falling within any other Section, any activity (other than the combustion or incineration of carbonaceous material as defined in the Interpretation of Part A(1) of Section 1.2) which is likely to result in the release into the air of any acid-forming oxide of nitrogen.

SECTION 4.3

*Chemical fertiliser production*

**Part A(1)**

(a) Producing (including any blending which is related to their production) phosphorus-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers).

SECTION 4.4

*Plant health products and biocides*

**Part A(1)**

(a) Producing plant health products or biocides.

SECTION 4.5

*Pharmaceutical production*

**Part A(1)**

(a) Producing pharmaceutical products.

SECTION 4.6

*Explosives production*

**Part A(1)**

(a) Producing explosives.

SECTION 4.7

*Manufacturing activities involving carbon disulphide or ammonia*

**Part A(1)**

(a) Any activity for the manufacture of a chemical which may result in the release of ammonia into the air, other than an activity in which ammonia is only used as a refrigerant.

SECTION 4.8

*The storage of chemicals in bulk*

**Part B**

(a) The storage in tanks, other than in tanks for the time being forming part of a powered vehicle, of any of the substances listed below, except where the total storage capacity of the tanks installed at the location in question in which the relevant substance may be stored is less than the figure specified below in relation to that substance—

(i) one or more acrylates, 20 tonnes (in aggregate);

(ii) acrylonitrile, 20 tonnes;

(iii) anhydrous ammonia, 100 tonnes;

(iv) anhydrous hydrogen fluoride, 1 tonne;

(v) toluene di-isocyanate, 20 tonnes;

(vi) vinyl chloride monomer, 20 tonnes;

(vii) ethylene, 8,000 tonnes.

## CHAPTER 5

## Waste management

### SECTION 5.1

*Incineration and co-incineration of waste*

**Part A(1)**

(a) The incineration of hazardous waste in a waste incineration plant or waste co-incineration plant with a capacity exceeding 10 tonnes per day.

(b) The incineration of non-hazardous waste in a waste incineration plant or waste co-incineration plant with a capacity exceeding 3 tonnes per hour.

(c) The incineration, other than incidentally in the course of burning landfill gas or solid or liquid waste, of any gaseous compound containing halogens.

**Part B**

(a) The incineration in a small waste incineration plant with an aggregate capacity of 50kg or more per hour of the following waste—

(i) vegetable waste from agriculture or forestry;

(ii) vegetable waste from the food processing industry, if the heat generated is recovered;

(iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;

(iv) cork waste;

(v) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coatings;

(vi) animal carcasses.

(b) The cremation of human remains.

**Application of Part B**

**1.** When determining the extent of an installation carrying on an activity within Part B, any location of the following description is to be ignored: any location where the associated storage or handling of wastes and residues which are to be incinerated as part of that activity is carried on, other than a location where the associated storage or handling of animal remains intended for burning in an incinerator used wholly or mainly for the incineration of such remains or residues from the burning of such remains in such an incinerator is carried on.

### SECTION 5.2

*Disposal of waste by landfill*

**Part A(1)**

(a) The disposal of waste in a landfill—

(i) receiving more than 10 tonnes of waste in any day, or

(ii) with a total capacity of more than 25,000 tonnes,

but excluding disposals in a landfill taking only inert waste.

SECTION 5.3

*Disposal or recovery of hazardous waste*

**Part A(1)**

(a) Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving one or more of the following activities—

(i) biological treatment;

(ii) physico-chemical treatment;

(iii) blending or mixing prior to submission to any of the other activities listed in this Section or in Section 5.1;

(iv) repackaging prior to submission to any of the other activities listed in this Section or in Section 5.1;

(v) solvent reclamation or regeneration;

(vi) recycling or reclamation of inorganic materials other than metals or metal compounds;

(vii) regeneration of acids or bases;

(viii) recovery of components used for pollution abatement;

(ix) recovery of components from catalysts;

(x) oil re-refining or other re-uses of oil;

(xi) surface impoundment.

SECTION 5.4

*Disposal, recovery or a mix of disposal and recovery of non-hazardous waste*

**Part A(1)**

(a) Disposal of non-hazardous waste with a capacity exceeding 50 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving one or more of the following activities, and excluding activities covered by Council Directive 91/271/EEC concerning urban waste-water treatment(**a**)—

(i) biological treatment;

(ii) physico-chemical treatment;

(iii) pre-treatment waste for incineration or co-incineration;

(iv) treatment of slags and ashes;

(v) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

(b) Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving one or more of the following activities, and excluding activities covered by Council Directive 91/271/EEC—

(i) biological treatment;

(ii) pre-treatment of waste for incineration or co-incineration;

(iii) treatment of slags and ashes;

(iv) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

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(**a**) OJ No L 135, 30.5.1991, p 40, as last amended by Council Directive 2013/64/EU (OJ No L 353, 28.12.2013, p 8).

**Interpretation of Part A(1)**

**1.** In Part A(1), "anaerobic digestion" has the same meaning as in the Industrial Emissions Directive.

SECTION 5.5

*The production of fuel from waste*

**Part A(1)**

(a) Making solid fuel (other than charcoal) from waste by any process involving the use of heat.

SECTION 5.6

*Temporary or underground storage of hazardous waste*

**Part A(1)**

(a) Temporary storage of hazardous waste with a total capacity exceeding 50 tonnes pending any of the activities listed in Sections 5.1, 5.2, 5.3 and paragraph (b) of this Section, except—

(i) temporary storage, pending collection, on the site where the waste is generated, or

(ii) activities falling within Section 5.2.

(b) Underground storage of hazardous waste with a total capacity exceeding 50 tonnes.

SECTION 5.7

*Treatment of waste water*

**Part A(1)**

(a) Independently operated treatment of waste water not covered by Directive 91/271/EEC and discharged by an installation carrying out any other Part A(1) or A(2) activity.

CHAPTER 6

Other activities

SECTION 6.1

*Paper, pulp and board manufacturing activities*

**Part A(1)**

(a) Producing, in industrial plant, pulp from timber or other fibrous materials.

(b) Producing, in industrial plant, paper and board where the plant has a production capacity of more than 20 tonnes per day.

**Part A(2)**

(a) Producing, in an industrial plant, one or more of the following wood-based panels with a production capacity exceeding 600$m^3$ per day: oriented strand board, particleboard or fibreboard.

SECTION 6.2

*Carbon activities*

**Part A(1)**

(a) Producing carbon or hard-burnt coal or electro-graphite by means of incineration or graphitisation.

SECTION 6.3

*Tar and bitumen activities*

**Part A(1)**

(a) The following activities—

(i) distilling tar or bitumen in connection with any process of manufacture, or

(ii) heating tar for the manufacture of electrodes or carbon-based refractory materials,

where the activity is likely to involve the use in any 12-month period of 5 or more tonnes of tar or of bitumen or both in aggregate.

**Part B**

(a) Any activity not falling within Part A(1) of this Section or of Section 6.2 involving—

(i) heating, but not distilling, tar or bitumen in connection with any manufacturing activity, or

(ii) oxidising bitumen by blowing air through it, at plant where no other activities described in any Section in this Schedule are carried on,

where the carrying on of the activity is likely to involve the use in any 12-month period of 5 or more tonnes of tar or bitumen or both in aggregate.

**Interpretation of Part B**

**1.** In Part B, "tar" and "bitumen" include pitch.

SECTION 6.4

*Coating activities, printing and textile treatments*

**Part A(1)**

(a) Pre-treating (by operations such as washing, bleaching or mercerization) or dyeing fibres or textiles in plant with a treatment capacity of more than 10 tonnes per day.

**Part A(2)**

(a) Unless falling within Part A(1) of this Section, surface treating substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, in plant with a consumption capacity of more than 150kg or more per hour than 200 tonnes per year.

**Part B**

(a) Unless falling within Part A(1) or Part A(2) of this Section or Part A(2)(c) of Section 2.1, any process (other than for the re-painting or re-spraying of, or of parts of, aircraft or road or railway vehicles) for applying to a substrate, or drying or curing after such application, printing ink or paint or any other coating material as, or in the course of, a manufacturing activity, where the process may result in the release into the air of particulate matter or of any volatile organic compound and is likely to involve the use in any 12-month period of—

(i) 20 or more tonnes of printing ink, paint or other coating material which is applied in solid form,

(ii) 20 or more tonnes of any metal coating which is sprayed on in molten form,

(iii) 25 or more tonnes of organic solvents in respect of any cold set web offset printing activity or any sheet fed offset litho printing activity, or

(iv) 5 or more tonnes of organic solvents in respect of any activity not mentioned in sub-paragraph (iii).

(b) Unless falling within Part A(2) of this Section, re-painting or re-spraying road vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use of 1 or more tonnes of organic solvents in any 12-month period.

(c) Re-painting or re-spraying aircraft or railway vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use in any 12-month period of—

(i) 20 or more tonnes of any paint or other coating material which is applied in solid form,

(ii) 20 or more tonnes of any metal coatings which are sprayed on in molten form, or

(iii) 5 or more tonnes of organic solvents.

**Interpretation and application of Part B**

**1.** In Part B—

"aircraft" includes gliders and missiles;

"coating material" means paint, printing ink, varnish, lacquer, dye, any metal oxide coating, any adhesive coating, any elastomer coating, any metal or plastic coating and any other coating material.

**2.** The amount of organic solvents used in an activity must be calculated as—

(a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents used for cleaning or other purposes, less

(b) any organic solvents that are removed from the process for re-use or for recovery for re-use.

**3.** When determining the extent of an installation carrying on an activity within Part B, any location where the associated cleaning of used storage drums prior to painting or their incidental handling in connection with such cleaning is carried on is to be ignored, unless that location forms part of a regulated facility at which a solvent emission activity is carried out.

SECTION 6.5

*The manufacture of dyestuffs, printing ink and coating materials*

**Part B**

(a) Unless falling within Part A(1) or Part A(2) of any other Section—

(i) manufacturing or formulating printing ink or any other coating material containing, or involving the use of, an organic solvent, where the carrying on of the activity is likely to involve the use of 100 or more tonnes of organic solvents in any 12-month period;

(ii) manufacturing any powder for use as a coating where the process uses lead chromate or triglycidyl isocyanurate and material where there is the capacity to produce 200 or more tonnes of such powder in any 12-month period.

**Interpretation of Part B**

**1.** In Part B, "coating material" has the same meaning as in Section 6.4.

**2.** The amount of organic solvents used in an activity must be calculated as—

(a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents for cleaning or other purposes, less

(b) any organic solvents, not contained in coating materials, that are removed from the process for re-use or for recovery for re-use.

SECTION 6.6

*Timber activities*

**Part A(2)**

(a) Preservation of wood and wood products with chemicals with a production capacity exceeding $75m^3$ per day other than exclusively treating against sapstain.

**Part B**

(a) Unless falling within Part A(2) of Section 6.1, manufacturing products wholly or mainly of wood at any works if the activity involves a relevant activity and the throughput of the works in any 12-month period is likely to be more than—

(i) 10,000 cubic metres in the case of works at which wood is only sawed, or wood is sawed and subjected to excluded activities, or

(ii) 1,000 cubic metres in any other case.

**Interpretation of Part B**

**1.** In Part B and in this paragraph—

"excluded activity" means any relevant activity (other than sawing) which, ignoring any sawing carried on at the works, would be unlikely to result in the release into the air of any substance in paragraph 6(3) of Part 1 of this Schedule in a quantity capable of causing significant harm;

"relevant activity" means the sawing, drilling, sanding, shaping, turning, planing, curing or chemical treatment of wood;

"throughput" means the amount of wood which is subjected to a relevant activity, but where wood is subject to two or more relevant activities at the same works, the second and any subsequent activity is to be ignored;

"wood" includes any product consisting wholly or mainly of wood;

"works" includes a sawmill or any other premises where relevant activities are carried on.

SECTION 6.7

*Activities involving rubber*

**Part A(2)**

(a) Manufacturing new tyres (but not remoulds or retreads) if this involves the use in any 12-month period of 50,000 or more tonnes of one or more of the following—

(i) natural rubber;

(ii) synthetic organic elastomers;

(iii) other substances mixed with them.

**Part B**

(a) Unless falling within Part A(1) or Part A(2) of any Section, the mixing, milling or blending of—

(i) natural rubber, or

(ii) synthetic organic elastomers,

if carbon black is used.

(b) Any activity which converts the product of an activity falling within paragraph (a) into a finished product if related to an activity falling within that paragraph.

SECTION 6.8

*The treatment of animal and vegetable matter and food industries*

**Interpretation of Section 6.8**

**1.**—(1) In this Section—

"animal" includes a bird or a fish;

"controlled waters" has the meaning given in section 104 of the 1991 Act;

"excluded activity" means—

(a) any activity carried on on a farm or agricultural holding other than—

(i) the manufacture of goods for sale;

(ii) the production of compost for growing mushrooms;

(b) the manufacture or preparation of food or drink for human consumption but excluding—

(i) the extraction, distillation or purification of animal or vegetable oil or fat otherwise than as an activity incidental to the cooking of food for human consumption;

(ii) any activity involving the use of green offal or the boiling of blood except the cooking of food (other than tripe) for human consumption;

(iii) the cooking of tripe for human consumption elsewhere than on premises on which it is to be consumed;

(c) the fleshing, cleaning and drying of pelts of fur-bearing mammals;

(d) any activity carried on in connection with the operation of a collection centre for animal by-products;

(e) any activity for the manufacture of soap not falling within Part A(1) of Section 4.1;

(f) the storage of vegetable matter not falling within any other Section;

(g) the manufacture of starch;

(h) the salting of hides or skins, unless related to any other activity listed in this Schedule;

(i) any activity for composting animal or vegetable matter or a combination of both, except where that activity is carried on for the purposes of cultivating mushrooms;

(j) any activity for cleaning, and any related activity for drying or dressing, seeds, bulbs, corms or tubers (and "related activity" means an activity being carried on by the same person at the same site);

(k) the drying of grain or pulses;

(l) any activity for the production of cotton yarn from raw cotton or for the conversion of cotton yarn into cloth;

(m) the drying of green crops;

"food" includes—

(a) drink,

(b) articles and substances of no nutritional value which are used for human consumption, and

(c) articles and substances used as ingredients in the preparation of food.

(2) In sub-paragraph (1)—

"green crops" means alfalfa (Lucerne), clover, grass, perennial ryegrass, tall fescue and other similar crops;

"green offal" means the stomach and intestines of any animal, other than poultry or fish, and their contents.

**Part A(1)**

(a) Tanning hides and skins at a plant with a treatment capacity of more than 12 tonnes of finished products per day.

(b) Slaughtering animals at a plant with a carcass production capacity of more than 50 tonnes per day.

(c) Disposing of or recycling animal carcasses or animal waste, other than by rendering in a small waste incineration plant, at a plant with a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or both in aggregate.

(d) Treatment and processing, other than exclusively packaging, of the following raw materials, whether previously processed or unprocessed, intended for the production of food or feed (where the weight of the finished product excludes packaging)—

(i) only animal raw materials (other than milk only) with a finished product production capacity greater than 75 tonnes per day;

(ii) only vegetable raw materials with a finished product production capacity greater than 300 tonnes per day or 600 tonnes per day where the installation operates for a period of no more than 90 consecutive days in any year;

(iii) animal and vegetable raw materials (other than milk only), both in combined and separate products, with a finished product production capacity in tonnes per day greater than—

(aa) 75 if A is equal to 10 or more, or

(bb) 300-(22.5 x A) in any other case,

where 'A' is the portion of animal material in percent of weight of the finished product production capacity.

(e) Treating and processing milk, the quantity of milk received being more than 200 tonnes per day (average value on an annual basis).

**Part A(2)**

(a) Disposing of or recycling animal carcasses or animal waste by rendering at plant or in a small waste incineration plant, where the plant or small waste incineration plant has a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or both in aggregate.

**Part B**

(a) Processing, storing or drying by the application of heat the whole or part of any dead animal or any vegetable matter (other than the treatment of effluent so as to permit its discharge into controlled waters or into a sewer unless the treatment involves the drying of any material with a view to its use as animal feedstuff) if the processing, storing or drying—

(i) does not fall within another Section, or Part A(1) or Part A(2) of this Section,

(ii) is not an excluded activity, and

(iii) may result in the release into the air of—

(aa) any substance listed in in paragraph 6(3) of Part 1 of this Schedule, or

(bb) any offensive smell noticeable outside the premises on which the activity is carried on.

(b) Breeding maggots in any case where 5kg or more of animal matter, vegetable matter or both in aggregate, are introduced into the process in any week.

SECTION 6.9

*Intensive farming*

**Part A(1)**

(a) Rearing poultry or pigs intensively in an installation with more than—

(i) 40,000 places for poultry,

(ii) 2,000 places for production pigs (over 30kg), or

(iii) 750 places for sows.

SECTION 6.10

*Carbon capture and storage*

**Part A(1)**

(a) Capture of carbon dioxide streams from an installation for the purposes of geological storage pursuant to Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide(**a**).

# SCHEDULE 2

Regulation 4

## Exempt facilities: general

**Interpretation: general**

**1.**—(1) In this Schedule—

"occupier" means a person who is or has been the occupier of the land on which an exempt water discharge activity or exempt groundwater activity is carried on;

"operator" means the person carrying on a water discharge activity or groundwater activity;

"register" means the register which the exemption registration authority is required to establish and maintain under paragraph 11(1);

"registered" means—

(a) in relation to a waste operation, that the relevant particulars appear on the register during a valid registration period,

(b) in relation to a water discharge activity, groundwater activity or flood risk activity, that the relevant particulars appear on the register,

and "registration" is to be construed accordingly;

"relevant particulars" has the meaning given in paragraph 10(4);

"valid registration period", for an exempt waste operation, means the period of validity of a registration referred to in paragraph 15(1), as read with paragraph 15(2);

"WEEE operation" means a waste operation falling within a description in paragraph T11.

(2) In this Schedule, in relation to an exempt waste operation, a reference to any of paragraphs U1 to U16, T1 to T32, D1 to D8 or S1 to S3 has the meaning given in paragraph 1(8) of Chapter 1 of Part 1 of Schedule 3.

**Interpretation: exemption registration authority and exemption authority**

**2.**—(1) Subject to sub-paragraph (2), the exemption registration authority in relation to a waste operation falling within a description in Part 1 of Schedule 3 is the appropriate agency.

(2) The exemption registration authority in relation to a waste operation falling within a description in paragraph T3 or T7 is—

(a) for a waste operation carried on by waste mobile plant by an establishment or undertaking whose principal place of business is in England and Wales, the local authority in whose area it has its principal place of business;

(b) for a waste operation carried on by waste mobile plant by an establishment or undertaking whose principal place of business is not in England and Wales, the local authority in whose area the operation is first carried on;

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(**a**) OJ No L 140, 5.6.2009, p 114, as last amended by Directive 2011/92/EU (OJ No L 26, 28.1.2012, p 1).

(c) for a waste operation not carried on by waste mobile plant, the local authority in whose area the operation is carried on.

(3) In relation to Wales only, the NRBW is the exemption registration authority in relation to—

(a) a water discharge activity falling within a description in Part 2 of Schedule 3, and

(b) a groundwater activity falling within a description in Part 3 of Schedule 3.

(4) In relation to England only—

(a) the Agency is the exemption registration authority in relation to—

(i) a water discharge activity falling within a description in paragraph 1 of Part 2 of Schedule 3, and

(ii) a groundwater activity falling within a description in paragraph 2 or 5 of Part 3 of Schedule 3;

(b) the Agency is the exemption authority in relation to—

(i) a water discharge activity falling within a description in paragraph 3 of Part 2 of Schedule 3, and

(ii) a groundwater activity falling within a description in paragraph 4 of Part 3 of Schedule 3.

(5) The exemption registration authority in relation to a flood risk activity falling within a description in Part 4 of Schedule 3 is the appropriate agency.

**General condition**

**3.** The general condition for an operation or activity in this Schedule is that the operation or activity is not an operation or activity that falls within Chapter 5 of Part 2 of Schedule 1 (waste management).

**Exempt waste operations**

**4.**—(1) For the purpose of the definition of "exempt waste operation", the requirements are—

(a) that a waste operation—

(i) falls within a description in Part 1 of Schedule 3, and

(ii) satisfies the general and specific conditions specified in that Part in relation to the description,

(b) subject to sub-paragraph (2) and paragraph 13(10) of this Schedule, that—

(i) the waste operation is registered, and

(ii) an establishment or undertaking is registered in relation to it, and

(c) that the type and quantity of waste submitted to the waste operation, and the method of disposal or recovery, are consistent with the need to attain the objectives mentioned in Article 13 of the Waste Framework Directive.

(2) The registration requirements in sub-paragraph (1)(b) do not apply in respect of a waste operation carried on by a person who is not an establishment or undertaking.

**Exempt water discharge activities: Wales**

**5.** For the purpose of the definition of "exempt water discharge activity", the requirements in Wales are—

(a) that a water discharge activity—

(i) falls within a description in Part 2 of Schedule 3, and

(ii) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,

(b) that the water discharge activity is registered and, subject to paragraph 13(10) of this Schedule, for a water discharge activity that falls within a description in—

(i) paragraph 1 of Part 2 of Schedule 3, the operator is registered in relation to the activity, or

(ii) paragraph 2 of Part 2 of that Schedule, the occupier is registered in relation to the activity, and

(c) that the water discharge activity does not cause pollution of inland freshwaters, coastal waters or relevant territorial waters.

**Exempt water discharge activities: England**

**6.** For the purpose of the definition of "exempt water discharge activity", the requirements in England are—

(a) that the water discharge activity—

(i) falls within a description in Part 2 of Schedule 3, and

(ii) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,

(b) where the water discharge activity falls within a description in paragraph 1 of Part 2 of Schedule 3, that (in addition to the requirements in sub-paragraph (a))—

(i) the activity is registered by the operator, and

(ii) subject to paragraph 13(10) of this Schedule, the operator is registered in relation to that activity, and

(c) that the water discharge activity does not cause pollution of inland freshwaters, coastal waters or relevant territorial waters.

**Exempt groundwater activities: Wales**

**7.** For the purpose of the definition of "exempt groundwater activity", the requirements in Wales are—

(a) that a groundwater activity—

(i) falls within a description in Part 3 of Schedule 3, and

(ii) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,

(b) that the groundwater activity is registered and, subject to paragraph 13(10) of this Schedule, for a groundwater activity that falls within a description in—

(i) paragraph 2 of Part 3 of Schedule 3, the operator is registered in relation to the activity,

(ii) paragraph 3 of Part 3 of that Schedule, the occupier is registered in relation to the activity, or

(iii) paragraph 5 of Part 3 of that Schedule, the operator is registered in relation to the activity, and

(c) that the groundwater activity does not cause pollution of groundwater.

**Exempt groundwater activities: England**

**8.** For the purpose of the definition of "exempt groundwater activity", the requirements in England are—

(a) that the groundwater activity—

(i) falls within a description in Part 3 of Schedule 3, and

(ii) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,

(b) where the groundwater activity falls within a description in paragraph 2 or 5 of Part 3 of Schedule 3, that (in addition to the requirements in sub-paragraph (a))—

(i) the activity is registered by the operator, and

(ii) subject to paragraph 13(10) of this Schedule, the operator is registered in relation to the activity, and

(c) that the groundwater activity does not cause pollution of groundwater.

**Exempt flood risk activities**

**9.** An "exempt flood risk activity" is a flood risk activity that—

(a) falls within a description in Part 4 of Schedule 3,

(b) satisfies, in relation to an activity of that description, the relevant conditions specified in that Part,

(c) is registered, and

(d) is an activity in relation to which the operator is registered.

**Procedure for registering an exempt facility**

**10.**—(1) An establishment or undertaking seeking to be registered in relation to a waste operation described in Part 1 of Schedule 3, or seeking to renew such a registration, must notify the exemption registration authority of—

(a) the relevant particulars, and

(b) the information specified in sub-paragraph (5).

(2) An occupier or operator seeking to be registered in relation to a water discharge activity described in Part 2 of Schedule 3 or a groundwater activity described in Part 3 of that Schedule must notify the exemption registration authority of the relevant particulars.

(3) An operator seeking to be registered in relation to a flood risk activity described in Part 4 of Schedule 3 must notify the exemption registration authority of the relevant particulars.

(4) The relevant particulars are—

(a) the name and address of—

(i) for a waste operation, the establishment or undertaking, or

(ii) for a water discharge activity, groundwater activity or flood risk activity, the occupier or operator,

(b) a description of the waste operation, water discharge activity, groundwater activity or flood risk activity,

(c) the place where the waste operation, water discharge activity, groundwater activity or flood risk activity is carried on, including—

(i) the postcode (if applicable), or

(ii) the Ordnance Survey National Grid reference point, and

(d) if the waste operation is a WEEE operation, the type and quantity of waste subject to the operation.

(5) The information in this sub-paragraph is the name and contact details of an individual officer or employee designated by the establishment or undertaking as the primary contact for the purposes of registration.

(6) Notification under sub-paragraph (1) or (2) must be in the form specified by the exemption registration authority.

(7) A notification under sub-paragraph (1) relating to a waste operation that is a WEEE operation must be accompanied by the applicable fee.

(8) In sub-paragraph (7), "applicable fee" means the fee prescribed under a charging scheme made under section 41 of the 1995 Act(**a**).

**Register of exempt facilities**

**11.**—(1) Every exemption registration authority must establish and maintain a register of exempt facilities in relation to which it is the exemption registration authority.

(2) Subject to sub-paragraphs (4) and (5), the exemption registration authority must ensure the register contains the relevant particulars—

(a) for an exempt waste operation other than a WEEE operation, within 5 working days after the date that it receives notification of the relevant particulars and the information specified in paragraph 10(5);

(b) for a WEEE operation—

(i) where a decision is made under sub-paragraph (3) not to inspect the operation, within 5 working days after the date of the decision;

(ii) otherwise, within 5 working days after the date of the inspection under sub-paragraph (3);

(c) for an exempt water discharge activity, exempt groundwater activity or exempt flood risk activity, within 15 working days after the date that it receives notification of the relevant particulars.

(3) Where information notified in accordance with paragraph 10(1) relates to a WEEE operation, the exemption registration authority may carry out an inspection of the operation before adding the information to the register in accordance with sub-paragraph (2).

(4) Where following an inspection carried out under sub-paragraph (3) the authority is not satisfied that a WEEE operation would meet the conditions in sub-paragraph (3) of paragraph T11, the information notified must not be added to the register.

(5) The exemption registration authority must ensure the register is updated to reflect any changes notified under paragraph 16(1) of this Schedule or under Part 2 or 3 of Schedule 3—

(a) for exempt waste operations, within 5 working days after the date that it receives the notification, or

(b) for exempt water discharge activities, exempt groundwater activities and exempt flood risk activities, within 15 working days after that date.

(6) Every exemption registration authority must—

(a) ensure that its register is open to inspection by the public free of charge at all reasonable hours, and

(b) provide reasonable facilities to the public for obtaining a copy of an entry on payment of a reasonable charge.

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

**Duty to remove entries from the register**

**12.**—(1) The duty to maintain a register in paragraph 11(1) includes a duty to remove an entry from the register if—

(a) the exemption registration authority becomes aware that the exempt facility is no longer in operation at the place stated in the relevant particulars, or

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(**a**) Section 41 was amended by paragraph 39 of Schedule 4 to the Flood and Water Management Act 2010 (c. 29) and by S.I. 2005/894, 1806 (W. 138), 2006/937, 2007/1711, 3106, 2008/3087, 2009/890, 3381, 2011/988, 1043, 2911, 2012/1659, 2788, 2013/755 (W. 90), 1821 and 2014/861.

(b) the facility ceases to be an exempt facility.

(2) If the exemption registration authority removes an entry from the register under sub-paragraph (1), it must notify without delay the occupier, operator or other person registered in relation to the exempt facility.

(3) Sub-paragraph (2) does not apply if the exemption registration authority was notified by the person registered in relation to the facility that the facility is no longer in operation at the place stated in the relevant particulars.

**Exclusion from the register of information affecting national security**

**13.**—(1) The appropriate authority may direct the exemption registration authority that, in the interests of national security, specified information or information of a specified description must be excluded from the register.

(2) The exemption registration authority must notify the appropriate authority of any information it excludes from the register pursuant to such a direction.

(3) The appropriate authority may direct the exemption registration authority that, in the interests of national security, before information of a specified description is included on the register, the information must be referred to the appropriate authority for determination as to whether or not it should be excluded from the register.

(4) A determination by the appropriate authority under sub-paragraph (3) to exclude information from the register must be given effect by a direction under sub-paragraph (1).

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

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

(7) A person giving a notice under sub-paragraph (5) must at the same time notify the exemption registration authority.

(8) The exemption registration authority must not include information notified under sub-paragraph (5) on the register unless the appropriate authority determines that it may be included.

(9) A determination by the appropriate authority to exclude information notified under sub-paragraph (5) from the register must be given effect by a direction under sub-paragraph (1).

(10) In relation to an exempt facility that is the subject of a direction or notice given under this paragraph, the requirement in paragraph 4(1)(b), 5(b), 6(b), 7(b) or 8(b)—

(a) does not apply where a direction or notice requires the exclusion of all relevant particulars from the register, and

(b) is satisfied where—

(i) a direction under sub-paragraph (1) requires the exclusion of some, but not all, relevant particulars from the register,

(ii) a direction under sub-paragraph (3) which is pending a determination under that sub-paragraph requires the exclusion of relevant particulars from the register, or

(iii) a notice under sub-paragraph (5) which is pending a determination under sub-paragraph (8) requires the exclusion of relevant particulars from the register,

and where any relevant particulars which are not subject to a direction or notice are included on the register.

**Restrictions on registering exempt waste operations carried on at the same place**

**14.**—(1) An establishment or undertaking may not be registered more than once during a valid registration period in relation to any one waste operation described in Part 1 of Schedule 3 that is carried on or is to be carried on at the same place.

(2) If an establishment or undertaking is registered more than once in contravention of sub-paragraph (1), the second and any subsequent registration is invalid.

(3) Subject to sub-paragraph (7), not more than one establishment or undertaking may be registered at the same time in relation to the same waste operation described in Part 1 of Schedule 3 if the operation is carried on or is to be carried on at the same place.

(4) If more than one establishment or undertaking is registered in contravention of sub-paragraph (3), only the registration specified in sub-paragraph (5) is valid.

(5) The registration specified in this sub-paragraph is the registration of the establishment or undertaking in respect of which the relevant particulars first appeared on the register in the relevant period.

(6) In this paragraph, "relevant period" means the period during which the relevant particulars appear on the register.

(7) Sub-paragraph (3) does not apply in relation to a waste operation falling within a description in paragraph D2.

**Validity of registration of waste operations**

**15.**—(1) A first registration or a registration in relation to a WEEE operation is valid for 3 years.

(2) Any other registration in relation to a waste operation is valid until the end of validity of the first registration.

(3) For the purposes of sub-paragraphs (1) and (2), the period of validity of a registration commences on the date of registration or on the most recent renewal date, as the case may be.

(4) An establishment or undertaking may renew a registration at any time in the month prior to the registration becoming invalid (and the registration procedure specified in paragraph 10 applies in relation to any such renewal).

(5) Where an establishment or undertaking has renewed a registration, the renewal takes effect on the day after the day on which the previous registration becomes invalid.

(6) In this paragraph—

"date of registration" means the date on which the relevant particulars first appear on the register;

"first registration" means—

(a) the first appearance on the register of relevant particulars for an establishment or undertaking in relation to a waste operation other than a WEEE operation, or

(b) in the case of a renewal, the first such appearance following the end of validity of the registration, other than the end of validity of the registration of a WEEE operation;

"renewal date" means the date that the renewal of a registration takes effect.

**Changes to relevant particulars relating to waste operations**

**16.**—(1) An establishment or undertaking registered in relation to a waste operation must notify the exemption registration authority without delay of any changes to—

(a) any of the relevant particulars, and

(b) any of the information specified in paragraph 10(5).

(2) If an establishment or undertaking does not comply with sub-paragraph (1)(a), the exemption registration authority may remove from the register the entry made in respect of the establishment or undertaking.

(3) Notification under sub-paragraph (1) must be in the form specified by the exemption registration authority.

(4) The exemption registration authority must notify the establishment or undertaking without delay if it removes an entry from the register pursuant to sub-paragraph (2).

**Record keeping for exempt waste operations**

**17.**—(1) This paragraph applies to every exempt waste operation where the waste operation—

(a) is a WEEE operation, or

(b) falls within a description in—

(i) subject to sub-paragraph (2), paragraph U10 or U11;

(ii) paragraph T9;

(iii) paragraph T3 or T7 where the operation is carried on by waste mobile plant.

(2) But it does not apply in relation to an exempt waste operation where—

(a) the waste operation falls within a description in paragraph U10 or U11, and

(b) the establishment or undertaking is required to keep records in relation to the operation and the waste that is subject to that operation under the Nitrate Pollution Prevention Regulations 2015(**a**) or the Nitrate Pollution Prevention (Wales) Regulations 2013(**b**).

(3) An establishment or undertaking which carries on an exempt waste operation to which this paragraph applies must—

(a) keep chronological records of the quantity, nature, origin and, where relevant, the destination and treatment method of all waste disposed of or recovered in the course of that operation, and

(b) where the waste operation falls within a description in paragraph T3 or T7 and is carried on by waste mobile plant, keep records of the places where the operation is carried on.

(4) An establishment or undertaking which carries on an exempt waste operation to which this paragraph applies must—

(a) retain any records that it is required to keep under sub-paragraph (3) for a period of—

(i) if the operation involves the treatment of hazardous waste, 3 years;

(ii) otherwise, 2 years, and

(b) during that period make those records available to the exemption registration authority on request.

**Periodic inspections of establishments and undertakings**

**18.** Every exemption registration authority must carry out appropriate periodic inspections of establishments and undertakings carrying on exempt waste operations in respect of which it is the exemption registration authority.

(**a**) S.I. 2015/668.
(**b**) S.I. 2013/2506 (W. 245), amended by S.I. 2015/2020 (W. 308).

# SCHEDULE 3

Regulation 4

## Exempt facilities and waste operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions

## PART 1

### Exempt waste operations: descriptions and conditions

#### CHAPTER 1

#### Interpretation of Part 1

**Interpretation**

**1.**—(1) In this Part—

"agricultural land" has the meaning given in section 109(1) of the Agriculture Act 1947(**a**) and, for the purposes of the descriptions in paragraphs U10 and U11, includes land used for the production of timber or other non-food crops;

"anaerobic digestion" means the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable waste which—

(a) is carried on under controlled anaerobic conditions, and

(b) results in stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land;

"associated storage" means storage of waste that—

(a) is associated with the use, treatment or disposal of waste, and

(b) takes place at the place where the use, treatment or disposal is carried on;

"bank" means a bank, wall or embankment adjoining or confining, or constructed for the purposes of or in connection with, any channel and includes all land between the bank and low-watermark;

"construction" means the carrying on of building or engineering work which includes the repair, alteration, maintenance or improvement of an existing work and preparatory or landscaping works;

"impermeable surface" means a surface or pavement constructed and maintained to a standard sufficient to prevent the transmission of liquids beyond the surface;

"inland waters" has the meaning given in section 221(1) of the 1991 Act;

"List of Wastes" means the list of wastes established by Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste(**b**), as amended from time to time;

"place of production" means, in relation to any waste, the place where the waste was originally produced;

"Plant Health notice" means a notice served under—

(a) article 13 of the Plant Health (*Phytophthora ramorum*) (Wales) Order 2006(**c**);

(b) article 31 of the Plant Health (Forestry) Order 2005(**d**);

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(**a**) 1947 c. 48.
(**b**) OJ No L 226, 6.9.2000, p 3, as last amended by Commission Decision 2014/955/EU (OJ No L 370, 30.12.2014, p 44).
(**c**) S.I. 2006/1344 (W. 134), to which there are amendments not relevant to these Regulations.
(**d**) S.I. 2005/2517; relevant amending instruments are S.I. 2011/1043, 2013/755 (W. 90), 2014/2420 and 2015/1723 (W. 235).

(c) article 32 of the Plant Health (England) Order 2015(**a**);

(d) article 32 of the Plant Health (Wales) Order 2006(**b**);

"relevant waste", where it appears in any paragraph in this Part, means waste that—

(a) falls within a code specified in the first column of the table in the paragraph, and

(b) is of a type specified in the second column of the table;

"scrap metal" has the meaning given in section 21 of the Scrap Metal Dealers Act 2013(**c**);

"sealed drainage" means a drainage system with an impermeable surface which ensures that—

(a) no liquid will run off the surface otherwise than via the system, and

(b) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump;

"secondary containment" means a bund or any other system for preventing waste which has leaked from the primary container from escaping from the place where it is stored or treated.

(2) In this Part, a six-digit code used to refer to a waste is a reference to the waste specified by the six-digit code in the List of Wastes, except insofar as the waste in this Part in relation to such a code does not include some of the types of waste specified by the code in the List.

(3) Where a bund is used as secondary containment—

(a) the bund must have an impermeable lining and—

(i) have a capacity of not less than 110% of the original container's storage capacity, or

(ii) if there is more than one container within the containment system, have a capacity of not less than 110% of the largest container's storage capacity or 25% of the aggregate storage capacity, whichever is the greater, and

(b) reasonable precautions must be taken to ensure that the capacities specified in paragraph (a) are maintained at all times.

(4) When interpreting this Part, a container, lagoon or other place is secure in relation to waste kept in it if—

(a) all reasonable precautions are taken to ensure that the waste cannot escape from it, and

(b) members of the public are unable to gain access to the waste.

(5) Where a quantity limit is specified in relation to more than one operation (storage, use or treatment) in any one specific or additional condition, that quantity limit applies to all of those operations on an aggregate basis.

(6) Where a waste operation is carried on by waste mobile plant, the quantity limits specified in any specific or additional specific condition in any Chapter of this Part apply in relation to each place where the operation is carried on.

(7) The quantity limits specified in any specific condition in paragraphs U1, U2, U10, U11, U12 and U15 that relate to the use or storage of waste over a specified period apply for that period regardless of whether more than one establishment or undertaking carries on the operation at the same place over that period.

(8) In this Part—

(a) a reference to any of paragraphs U1 to U16 is a reference to a paragraph numbered 1 to 16 in Section 2 of Chapter 2 (use of waste);

(b) a reference to any of paragraphs T1 to T32 is a reference to a paragraph numbered 1 to 32 in Section 2 of Chapter 3 (treatment of waste);

(c) a reference to any of paragraphs D1 to D8 is a reference to a paragraph numbered 1 to 8 in Section 2 of Chapter 4 (disposal of waste);

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(**a**) S.I. 2015/610, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2006/1643 (W. 158), amended by S.I. 2011/1043; there are other amending instruments but none is relevant.
(**c**) 2013 c. 10.

(d) a reference to any of paragraphs S1 to S3 is a reference to a paragraph numbered 1 to 3 in Section 2 of Chapter 5 (storage of waste).

## CHAPTER 2

## Use of waste

### SECTION 1

*Introductory*

**1.**—(1) The descriptions in this Chapter—

(a) are set out in the first sub-paragraph of paragraphs U1 to U16, and

(b) include associated storage.

(2) The specific conditions for each description in this Chapter are set out in the third sub-paragraph of paragraphs U1 to U16.

(3) The general conditions for all descriptions in this Chapter are as follows—

(a) the operation is for the purposes of recovering or reusing the waste, unless otherwise stated in the specific conditions;

(b) the waste used is suitable for the purposes of the operation;

(c) no more waste is used than is necessary to carry on the operation.

### SECTION 2

*Descriptions and specific conditions*

**Use of waste in construction (U1)**

**1.**—(1) The use of relevant waste in construction.

(2) The tables specifying relevant waste for the purposes of this paragraph are set out below.

**Table 1**

| *Codes* | *Waste types* | *Quantity limit* | *Additional specific conditions* |
|---|---|---|---|
| 010102 | Waste from mineral non-metalliferous excavation | 5,000 tonnes | |
| 010408 | Waste gravel and crushed rock other than those mentioned in 010407 | | |
| 010409 | Waste sand and clays | | |
| 020202 | Shellfish shells from which the soft tissue or flesh has been removed only | | |
| 101208 | Waste ceramics, bricks, tiles and construction products (after thermal processing) | | |
| 101314 | Waste concrete and concrete sludge | | |
| 170101 | Concrete | | |
| 170102 | Bricks | | |
| 170103 | Tiles and ceramics | | |
| 170107 | Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 170106 | | |
| 170506 | Dredging spoil other than those mentioned in 170505 | | A |
| 170508 | Track ballast other than those mentioned in 170507 | | |
| 191205 | Glass | | |
| 191209 | Minerals (for example sand, stones) | | |
| 191212 | Aggregates only | | |

**Table 2**

| *Codes* | *Waste types* | *Quantity limit* | *Additional specific conditions* |
|---|---|---|---|
| 020399, 020401 | Soil from cleaning and washing fruit and vegetables only | 1,000 tonnes | |
| 170302 | Bituminous mixtures other than those mentioned in 170301 | 1,000 tonnes | B |
| 170504 | Soil and stones other than those mentioned in 170503 | 1,000 tonnes | |
| 170506 | Dredging spoil other than those mentioned in 170505 | 1,000 tonnes | |
| 191302 | Solid wastes from soil remediation other than those mentioned in 191301 | 1,000 tonnes | |
| 200202 | Soil and stones | 1,000 tonnes | |
| 020103 | Plant tissue waste | 1,000 tonnes | B |
| 030101, 030301 | Untreated waste bark, cork and wood only | 1,000 tonnes | B |
| 030105 | Untreated wood including sawdust, shavings and cuttings from untreated wood only | 1,000 tonnes | B |
| 170201 | Untreated wood only | 1,000 tonnes | B |
| 191207 | Untreated wood other than those mentioned in 191206 only | 1,000 tonnes | B |
| 200138 | Untreated wood other than those mentioned in 200137 only | 1,000 tonnes | B |

**Table 3**

| *Codes* | *Waste types* | *Quantity limit* | *Additional specific conditions* |
|---|---|---|---|
| 170302 | Bituminous mixtures other than those mentioned in 170301 | 50,000 tonnes | C |
| 170504 | Road sub base only | | C |

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

(a) where the relevant waste falls within the first column of a table in sub-paragraph (2), the total quantity of waste used or stored over any 3-year period does not exceed the limit indicated in the third column of that table,

(b) where one or more waste type falling within the first column of any one table in sub-paragraph (2) is used or stored, the total quantity for all the waste types used or stored does not exceed the limit indicated in the third column of that table over any 3-year period,

(c) no waste is stored for longer than 12 months prior to use, and

(d) the operation complies with such of the following additional conditions as are specified in the fourth column of the table and for these purposes—

A the waste is used only for drainage work carried on for the purposes of the Land Drainage Act 1991(**a**), the 1991 Act or the 1995 Act;

B the waste is used only for the construction of tracks, paths, bridleways or car parks and must be processed into chipped form prior to use;

C the waste is used only for the construction of roads.

**Use of baled end-of-life tyres in construction (U2)**

**2.**—(1) The use of relevant waste in construction.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 160103 | Baled end-of-life tyres only |

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

(a) the total quantity of waste used or stored during the construction does not exceed 50 tonnes of baled tyres,

(b) the waste is not used more than once,

(c) the bales comply with standard PAS108, and

(d) no waste is stored for longer than 3 months prior to use.

**Use of waste in the construction of entertainment or educational installations etc. (U3)**

**3.**—(1) The use of relevant waste in the construction of installations, exhibits, sets or demonstrations for entertainment or educational purposes.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 170102 | Bricks |
| 170103 | Tiles and ceramics |
| 170201, 200138 | Wood |
| 170203, 200139 | Plastic |
| 170401 to 170407, 170411, 200140 | Metals including their alloys |
| 200101 | Paper and cardboard |
| 200111 | Textiles |

(3) For the purposes of this paragraph, the specific condition is that the total quantity of waste used or stored prior to use does not exceed 20 tonnes at any one time.

**Burning of waste as a fuel in a small appliance (U4)**

**4.**—(1) The burning of relevant waste as a fuel in an appliance if the requirements in sub-paragraph (4) are met.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 020103, 200201 | Plant tissue waste only |
| 020107, 170201 | Untreated wood only |
| 020304 | Vegetable waste unsuitable for consumption or processing |

(**a**) 1991 c. 59.

| *Codes* | *Waste Types* |
|---|---|
| 030101 | Waste bark and cork |
| 030105 | Untreated sawdust and wood shavings other than those mentioned in 030104 only |
| 030301 | Waste bark and wood |
| 030310 | Fibre rejects (fibrous vegetable waste from virgin pulp preparation or paper pulp production) only |
| 150103 | Untreated wooden packaging only |

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

(a) the total quantity of waste burned over any period of 1 hour is less than 50kg,

(b) the total quantity of waste stored at any one time does not exceed 10 tonnes, and

(c) the waste is stored in a secure place.

(4) The requirements in this sub-paragraph are that—

(a) the appliance has a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

**Use of waste derived biodiesel as fuel (U5)**

**5.**—(1) The use of biodiesel derived from relevant waste as a fuel in a portable generator if the requirements in sub-paragraph (4) are met or in a motor vehicle and the storage of such biodiesel—

(a) in or on a motor vehicle or in such a portable generator, or

(b) at a place that is owned or occupied by the owner or user of the biodiesel.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 190210 | Waste derived biodiesel only |

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

(a) the total quantity of biodiesel stored in or on a motor vehicle or in a portable generator at any one time does not exceed 1,000 litres,

(b) the total quantity of biodiesel stored at a place owned or occupied by the owner or user of the biodiesel at any one time does not exceed 5,000 litres, and

(c) the biodiesel is stored with secondary containment.

(4) The requirements in this sub-paragraph are that—

(a) the portable generator has a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other portable generators (whether or not it is operated simultaneously with such other generators) the aggregate net rated thermal input of all the generators is less than 0.4 megawatts.

**Use of sludge for the purposes of re-seeding a waste water treatment plant (U6)**

**6.**—(1) The use of relevant waste at a waste water treatment plant for the purposes of re-seeding the plant.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 190805 | Sludges from treatment of urban waste water |
| 190812 | Sludges from biological treatment of industrial waste water other than those mentioned in 190811 |

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

(a) the total quantity of waste used or stored at the plant at any one time does not exceed 1,000 cubic metres, and

(b) the waste was not produced at the plant.

**Use of effluent to clean a highway gravel bed (U7)**

**7.**—(1) The use of relevant waste from a water treatment works or a waste water treatment plant to clean a highway gravel bed.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 190899 | Effluent only |

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

(a) the total quantity of waste used over any 24-hour period does not exceed 10 cubic metres,

(b) the highway gravel bed has sealed drainage to ensure that the condition in paragraph (c) can be met,

(c) all waste used in and produced by the cleaning operation is collected, and

(d) the waste meets any relevant conditions specified in the environmental permit authorising the operation of the water treatment works or waste water treatment plant.

**Use of waste for a specified purpose (U8)**

**8.**—(1) The use of relevant waste for a specified purpose.

(2) For the purposes of this paragraph—

(a) the table specifying relevant waste and the limits referred to in sub-paragraph (3)(a) and (b) is set out below;

(b) "specified purpose" is a purpose specified in the third column of the table.

| *Codes* | *Waste types* | *Specified purpose* | *Quantity limit (at any one time)* |
|---|---|---|---|
| 030105, 191207 | Untreated wood (including shavings, woodchip and sawdust) and over-sized compost only | Use in equestrian exercise surfaces | 1,000 tonnes |
| 191204 | Shredded or granulated rubber and end-of-life tyres only | Use in equestrian exercise surfaces | 1,000 tonnes |
| 191201 | Shredded paper and cardboard | Use as animal bedding | 100 tonnes |
| 030305, 030310, 030311 | Paper fibre, de-inked paper pulp and de-inked paper sludge from paper manufacturing only | Use as animal bedding | 100 tonnes |
| 030105, 191207 | Untreated wood | Use as animal bedding | 100 tonnes |

| *Codes* | *Waste types* | *Specified purpose* | *Quantity limit (at any one time)* |
|---|---|---|---|
| | (including shavings, woodchip and sawdust) and over-sized compost only | | |
| 160103 | End-of-life tyres | Use as a weight on cover sheeting on agricultural premises or use as crash barriers | 40 tonnes |
| 150102 | Geotextile bags (flexible intermediate bulk containers) only | Use as reinforcement in construction | 100 bags |
| 020202 | Shellfish shells from which the soft tissue or flesh has been removed only | Use for ornamental purposes | 50 tonnes |
| 191205 | Crushed glass only | Use for ornamental purposes | 50 tonnes |
| 200127*, 200128, 080111*, 080112 | Paints (excluding specialist and industrial paints, wood preservatives, aerosol and spray paints, inks, adhesives and resins) | Use as paint | 1,000 litres |
| 190599 | Compost produced for the purposes of growing mushrooms only | Use in growing mushrooms | 1,000 tonnes |
| 170102, 170904 | Stones and bricks capable of being used in their existing state only | Use in construction of buildings, fencing, barriers, containment or similar above ground construction | 100 tonnes |
| 170201, 191207, 200138 | Non-hazardous wood including telegraph poles and railway sleepers and lock gates and associated balance beams | Use in construction of buildings, fencing, barriers, containment or similar above ground construction | 100 tonnes |
| 110105*, 110107* | Ferric chloride and aluminium hydroxide only | Use in treating municipal waste water effluent | 50 cubic metres |
| 110105*, 110107* | Ferric chloride and aluminium hydroxide only | Use in potable water treatment processes | 50 cubic metres |
| 190902, 190903, 190906 | Sludges/solutions from the treatment of water only | Use in treating municipal waste water effluent | 50 cubic metres |
| 100201, 100202, 170504, 191209 | Blast furnace slag and stones only | Use as filter media at waste water treatment works | 50,000 tonnes |
| 170204*, 191206*, | Hazardous wooden | Use in construction of | 100 tonnes |

| *Codes* | *Waste types* | *Specified purpose* | *Quantity limit (at any one time)* |
|---|---|---|---|
| 200137* | telegraph poles and railway sleepers and lock gates and associated balance beams only | buildings, fencing, barriers, containment or similar above ground construction | |

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

(a) the total amount of waste used or stored at any one time does not exceed the quantity limit specified in the fourth column,

(b) in relation to any relevant waste to which code 160103 applies (end-of-life tyres), within the quantity limit specified for that waste type, not more than 10 tonnes is stored together,

(c) the waste is not treated or required to be treated prior to use,

(d) in relation to any relevant waste to which code 110105* (ferric chloride), 110107* (aluminium hydroxide), 190902, 190903, 190906 (sludges/solutions from the treatment of water) applies, the waste is stored—

(i) with secondary containment, and

(ii) in a location with sealed drainage, and

(e) in relation to any relevant waste to which code 110105* (ferric chloride), 110107* (aluminium hydroxide) applies, within the quantity limit specified for that waste type, not more than 10 tonnes of waste may be used per day.

**Use of waste to manufacture finished goods (U9)**

**9.**—(1) The use of relevant waste to manufacture finished goods.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3)(a) is set out below.

| *Codes* | *Waste types* | *Quantity limit (at any one time)* | *Additional specific conditions* |
|---|---|---|---|
| 100101, 100102 | Ash only | 500 tonnes | A |
| 101208 | Ceramics | 100 tonnes | A |
| 101112, 150107, 191205, 200102 | Glass | 5,000 tonnes | A |
| 100105 | Gypsum only | 500 tonnes | A |
| 200199 | Lion faeces only | 5 tonnes | B |
| 120101, 120103, 150104, 160117, 160118, 191001, 191002, 191202, 191203, 200140 | Metals | 500 tonnes | A |
| 150101, 191201, 200101 | Paper and cardboard | 15,000 tonnes | C, D |
| 070213, 120105, 150102, 191204, 200139 | Plastics | 500 tonnes | E |
| 191204 | Rubber only | 30 tonnes | E, F |
| 040221, 040222, 150109, 191208, 200110, 200111 | Textiles | 1,000 tonnes | B |
| 030105, 030301, 150103, 191207, | Wood, bark, cork, sawdust, shavings, | 100 tonnes | B |

| *Codes* | *Waste types* | *Quantity limit (at any one time)* | *Additional specific conditions* |
|---|---|---|---|
| 200138 | cuttings, particle board | | |

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

(a) the total quantity of waste used or stored at any one time does not exceed the quantity limit specified in the third column of the table in sub-paragraph (2),

(b) the waste is stored in a secure location at the place where the manufacturing is carried on,

(c) the operation does not involve any activity falling within a description in Part A(1) or Part A(2) of Part 2 of Schedule 1, and

(d) the operation complies with such of the following additional specific conditions as are specified in the fourth column of the table—

A the waste is stored at a location with sealed drainage;
B the waste is stored indoors or in a secure container;
C the waste is stored in a baled form, in a container or indoors;
D within the quantity limit specified in the third column of the table and notwithstanding additional specific condition C, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter;
E the waste is not subject to heat treatment;
F the total quantity of waste stored together does not exceed 10 tonnes.

(4) For the purposes of this paragraph, "finished goods" means goods that are ready for use by an end consumer without any further processing.

**Spreading waste on agricultural land to confer benefit (U10)**

**10.**—(1) The spreading of relevant waste on agricultural land to confer benefit to the land for the purposes of providing, maintaining or improving the soil's ability to provide a growing medium by adding nutrients, lime or biomass.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity and storage limits referred to in sub-paragraph (3) is set out below.

| *Codes* | *Waste types* | *Quantity limit* | *Storage limit (at any one time)* | *Period* | *Additional specific conditions* |
|---|---|---|---|---|---|
| 010102, 010408, 170504 | Chalk only | 50 tonnes per hectare | 200 tonnes | 12 months | A |
| 020101 | Sludges from washing and cleaning fruit and vegetables on farm only | 50 tonnes per hectare | 200 tonnes | 12 months | A, F |
| 020199, 020399 | Untreated wash waters from cleaning fruit and vegetables on farm only | 100 tonnes per hectare | 200 tonnes | 12 months | A, F |
| 020305 | Effluent from the on-site treatment of | 100 tonnes per hectare | 200 tonnes | 12 months | A, F |

| *Codes* | *Waste types* | *Quantity limit* | *Storage limit (at any one time)* | *Period* | *Additional specific conditions* |
|---|---|---|---|---|---|
| | wash waters from cleaning fruit and vegetables on farm only | | | | |
| 020401, 020399 | Soil from cleaning and washing fruit and vegetables only | 50 tonnes per hectare | 200 tonnes | 12 months | A |
| 020199 | Milk from agricultural premises only | 50 cubic metres of diluted milk per hectare | 200 tonnes | 24 hours | A, B, E |
| 100101 | Ash from wood chip boilers produced pursuant to an operation described in paragraph U4 only | 1 tonne per hectare | 10 tonnes | 12 months | A |
| 170506 | Dredging spoil (other than those mentioned in 170505) generated from the creation or maintenance of habitats, ditches or ponds within parks, gardens, fields and forests only | 150 tonnes per hectare | 1,250 tonnes | 12 months | C |
| 020199 | Spent compost from the growing of mushrooms only | 50 tonnes per hectare | 500 tonnes | 12 months | A |
| 190599 | Compost produced pursuant to a treatment described in paragraph T23 or T26 | 50 tonnes per hectare | 500 tonnes | 12 months | A |

| *Codes* | *Waste types* | *Quantity limit* | *Storage limit (at any one time)* | *Period* | *Additional specific conditions* |
|---|---|---|---|---|---|
| | only | | | | |
| 190604 | Digestate produced pursuant to a treatment described in paragraph T24 or T25 only | 50 tonnes per hectare | 200 tonnes | 12 months | A |
| 190812 | Waste consisting of biobed or biofilter material produced pursuant to a treatment described in paragraph T32 only | 50 tonnes per hectare | 200 tonnes | 12 months | A, D |

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

(a) the total quantity of waste spread does not exceed the limit specified in the third column of the table in sub-paragraph (2) over the period specified in the fifth column,

(b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table,

(c) subject to additional specific conditions D and E in paragraph (f), where they apply, no waste is stored for longer than 12 months prior to spreading,

(d) the waste is stored in a secure location prior to spreading,

(e) at the time the spreading begins—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours,

(ii) the land is not waterlogged, frozen or snow-covered, and

(f) the operation complies with such of the following additional specific conditions as are specified in the sixth column of the table—

A the location of any waste which is stored or land which is spread is at least 10 metres from a watercourse and 50 metres from a spring, well or bore-hole;
B prior to spreading, the waste is diluted with not less than an equal quantity of water or slurry and the land is spread not more than once in any 4-week period;
C the waste is spread adjacent to the place from which it was dredged;
D the waste is stored for at least 12 months prior to spreading;
E the waste is not stored for longer than 24 hours prior to spreading;
F the waste is spread at the place where it is produced.

**Spreading waste on non-agricultural land to confer benefit (U11)**

**11.**—(1) The spreading of relevant waste on land that is not agricultural land for the purposes of providing, maintaining or improving the soil's ability to provide a growing medium by adding nutrients, lime or bio-mass.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity and storage limits referred to in sub-paragraph (3) is set out below.

| *Codes* | *Waste types* | *Quantity limit (over 12 months)* | *Storage limit (at any one time)* | *Additional specific conditions* |
|---|---|---|---|---|
| 010102, 010408, 170504 | Chalk only | 50 tonnes per hectare | 200 tonnes | A |
| 020202 | Shellfish shells from which the soft tissue or flesh has been removed only | 50 tonnes per hectare | 200 tonnes | A |
| 020399, 020401 | Soil from cleaning and washing fruit and vegetables only | 50 tonnes per hectare | 200 tonnes | A |
| 100101 | Ash from wood chip boilers produced pursuant to an operation described in paragraph U4 only | 1 tonne per hectare | 10 tonnes | A |
| 170506 | Dredging spoil (other than those mentioned in 170505) generated from the creation or maintenance of habitats, ditches or ponds within parks, gardens, fields and forests only | 150 tonnes per hectare | 1,250 tonnes | B |
| 020199 | Spent compost from the growing of mushrooms only | 50 tonnes per hectare | 500 tonnes | A |
| 190599 | Compost produced pursuant to a treatment described in paragraph T23 or T26 only | 50 tonnes per hectare | 500 tonnes | A |
| 190604 | Digestate produced pursuant to a treatment described in paragraph T24 or T25 only | 50 tonnes per hectare | 200 tonnes | A |
| 190812 | Waste consisting of biobed or biofilter material | 50 tonnes per hectare | 200 tonnes | A, C |

| *Codes* | *Waste types* | *Quantity limit (over 12 months)* | *Storage limit (at any one time)* | *Additional specific conditions* |
|---|---|---|---|---|
| | produced pursuant to a treatment described in paragraph T32 only | | | |
| 200108 | Coffee grounds only | 50 tonnes per hectare | 200 tonnes | A |

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

(a) the total quantity of waste spread does not exceed the limit specified in the third column of the table in sub-paragraph (2) over any 12-month period,

(b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table,

(c) subject to additional specific condition C in paragraph (f), where it applies, no waste is stored for longer than 12 months prior to spreading,

(d) the waste is stored in a secure location prior to spreading,

(e) at the time the spreading begins—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours;

(ii) the land is not waterlogged, frozen or snow-covered, and

(f) the operation complies with such of the following additional specific conditions as are specified in the fifth column of the table—

A the location of any waste which is stored or land which is spread is at least 10 metres from a watercourse and 50 metres from a spring, well or borehole;

B the waste is spread adjacent to the place from which it was dredged;

C the waste is stored for at least 12 months prior to spreading.

**Use of mulch (U12)**

**12.**—(1) The use of relevant waste as a mulch.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 020103, 191207, 200201 | Untreated wood and plant matter |

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

(a) the total quantity of waste used or stored over any period of 1 month does not exceed 100 tonnes, and

(b) the waste is stored in a secure location prior to use.

**Spreading of plant matter to confer benefit (U13)**

**13.**—(1) The spreading of relevant waste at the place of production to confer benefit.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 020103, 020107, 020304, 200201 | Plant tissue only |

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

(a) the total quantity of waste spread over any 12-month period does not exceed 50 tonnes per hectare,

(b) at the time the spreading begins—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours;

(ii) the land is not waterlogged, frozen or snow-covered, and

(c) except for waste which is spread on the banks of the waters from which it was produced, no waste is spread within 50 metres of any watercourse, spring, well or borehole.

**Incorporation of ash into soil (U14)**

**14.**—(1) The incorporation of ash which is relevant waste into soil resulting from a qualifying operation.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 020103, 020107, 200201 | Ash from burning of plant tissue only |

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

(a) the total quantity of waste incorporated into soil does not exceed 10 tonnes per hectare, and

(b) ashes of burnt cereal, straw or cereal stubble are not allowed, without reasonable excuse, proof of which lies on the establishment or undertaking carrying on the operation, to remain on the soil for longer than 24 hours after the commencement of the burning but must be incorporated into the soil—

(i) within that period, or

(ii) in a case where, having regard to wind conditions to do so would be likely to cause nuisance, as soon as conditions allow.

(4) For the purposes of this paragraph, a "qualifying operation" is one that—

(a) involves the burning of cereal straw or cereal stubble,

(b) falls within a description in paragraph D7, and

(c) complies with the specific conditions specified in that paragraph and the general conditions specified in Chapter 3.

**Pig and poultry ash (U15)**

**15.**—(1) The spreading of relevant waste on agricultural land at the place of production.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 190112 | Ash from the incineration of pig and poultry carcasses only |

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

(a) the total quantity of waste spread over any 12-month period does not exceed 150kg per hectare,

(b) the waste is mixed with an equal volume or more of manure or slurry prior to spreading,

(c) the waste is stored in a secure place prior to spreading,

(d) the location of the waste which is stored or land which is spread is at least—

(i) 10 metres from a watercourse;

(ii) 50 metres from a spring, well or borehole, and

(e) at the time of the spreading—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours;

(ii) the land is not waterlogged, frozen or snow-covered.

**Use of depolluted end-of-life vehicles for vehicle parts (U16)**

**16.**—(1) The use of relevant waste for vehicle parts.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste Types* |
|---|---|
| 160106 | End-of-life vehicles, containing neither liquids nor other hazardous components |
| 160122 | Non-hazardous components from end-of-life vehicles only |

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

(a) no more than two depolluted end-of-life vehicles are stored at any one time,

(b) in relation to relevant waste to which code 160122 (non-hazardous components from end-of-life vehicles) applies, the total quantity of waste stored at any one time does not exceed 5 cubic metres,

(c) the waste is stored in a secure place,

(d) the waste is stored on an impermeable surface, and

(e) the operation is for the purposes of re-using the waste.

(4) In this paragraph—

"depolluted" means that the vehicle has been subjected to all of the operations described in paragraph 3 of Annex 1 to the End-of-Life Vehicles Directive;

"end-of-life vehicle" has the meaning given in paragraph 2(2)(b) of Schedule 11.

## CHAPTER 3

## Treatment of waste

### SECTION 1

### *Introductory*

**1.**—(1) The descriptions in this Chapter—

(a) are set out in the first sub-paragraph of paragraphs T1 to T32, and

(b) include associated storage.

(2) The specific conditions for each description in this Chapter are set out in the third sub-paragraph of paragraphs T1 to T32.

(3) The general condition for the descriptions in this Chapter is that the operation is for the purposes of recovering the waste, unless otherwise stated in the specific conditions.

### SECTION 2

### *Descriptions and specific conditions*

**Cleaning, washing, spraying or coating relevant waste (T1)**

**1.**—(1) The treatment of relevant waste by cleaning, washing, spraying or coating it, subject to sub-paragraph (4).

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 150105 | Composite packaging |
| 160120, 150107, 170202, 191205, 200102 | Glass |
| 150101 | Paper and cardboard packaging |

| *Codes* | *Waste types* |
|---|---|
| 020104, 070213, 150102, 160119, 170203, 200139 | Plastic |
| 150109 | Textile packaging |

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

(a) the total quantity of waste treated over any 7-day period does not exceed 300 tonnes,

(b) subject to paragraph (e), the total quantity of waste stored at any one time does not exceed 300 tonnes,

(c) the waste is stored and treated in a location with sealed drainage,

(d) no waste is stored for longer than 3 months prior to treatment,

(e) where the waste consists of containers that have been used to contain a hazardous substance, the total quantity of waste stored does not exceed 1 tonne over any 7-day period, and

(f) the waste is not contaminated by more than 1% of its original volume prior to treatment.

(4) The description in sub-paragraph (1) does not include cleaning, washing, spraying or coating of any relevant waste if this falls within Part B of Section 6.4 of Part 2 of Schedule 1.

(5) In this paragraph, "hazardous substance" means a substance classified as hazardous as a consequence of fulfilling the criteria laid down in Parts 2 to 5 of Annex I to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures(**a**).

(6) References in this paragraph to quantity limits by weight include the weight of any contamination.

**Recovery of textiles (T2)**

**2.**—(1) The treatment of relevant waste by laundering or otherwise cleaning it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 191208 | Textiles |
| 200110 | Clothes |
| 200111 | Textiles |

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

(a) the total quantity of waste treated or stored at any one time does not exceed 20,000 tonnes, and

(b) the waste is treated and stored at a location with sealed drainage.

**Treatment of waste metals and metal alloys by heating for the purposes of removing grease etc. (T3)**

**3.**—(1) The treatment of relevant waste for the purposes of removing grease, oil or any other non-metallic contaminant by heating it in an appliance where the requirements of sub-paragraph (4) are met using a process that is not an excluded process.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

(**a**) OJ No L 353, 31.12.2008, p 1, as last amended by Commission Regulation (EU) No 1297/2014 (OJ No L 350, 6.12.2014, p 1).

| *Codes* | *Waste types* |
|---|---|
| 160117 | Ferrous metal |
| 160118 | Non-ferrous metal |
| 191001 | Iron and steel waste |
| 191002 | Non-ferrous waste |
| 191202 | Ferrous metal |
| 191203 | Non-ferrous metal |
| 200140 | Metals |

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

(a) the total quantity of waste stored or treated at any one time does not exceed 10 tonnes, and

(b) the waste is stored in a secure location with sealed drainage.

(4) The requirements in this sub-paragraph are that—

(a) the appliance has a net rated thermal input of less than 0.2 megawatts, and

(b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.2 megawatts.

(5) The processes that are excluded processes for the purposes of sub-paragraph (1) are—

(a) the removal by heat of plastic or rubber covering from scrap cable or any asbestos contaminant,

(b) a process that is an activity listed in Section 2.1 (other than paragraph (d) of Part B) of Part 2 of Schedule 1 involving the heating of iron, steel or ferrous alloy, and

(c) a process that is an activity described in Part A(1) or A(2) of Section 2.2 of Chapter 2 of Part 2 of Schedule 1 involving the heating of any non-ferrous metal or non-ferrous metal alloy.

**Preparatory treatments (baling, sorting, shredding etc.) (T4)**

**4.**—(1) The treatment of relevant waste by baling, sorting, shredding, pulverising, densifying, crushing or compacting it.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3) is set out below.

| *Codes* | *Waste types* | *Treatment limit (over 7 days)* | *Storage limit (at any one time)* |
|---|---|---|---|
| 150104, 200140 | Cans and foils only | 100 tonnes where treatment is carried on outdoors<br>500 tonnes where treatment is carried on indoors | 500 tonnes |
| 070213, 150102, 150105 | Food and drink cartons only | 100 tonnes where treatment is carried on outdoors<br>3,000 tonnes where treatment is carried on indoors | 500 tonnes |
| 150107, 160120, 170202, 191205, 200102 | Glass | 5,000 tonnes | 5,000 tonnes |
| 030308, 030307, | Paper and cardboard | 500 tonnes where | 15,000 tonnes |

| *Codes* | *Waste types* | *Treatment limit (over 7 days)* | *Storage limit (at any one time)* |
|---|---|---|---|
| 150101, 191201, 200101 | (excluding food and drink cartons) | treatment is carried on outdoors<br>3,000 tonnes where treatment is carried on indoors | |
| 020104, 070213, 120105, 150102, 160119, 170203, 191204, 200139 | Plastic | 100 tonnes where treatment is carried on outdoors<br>3000 tonnes where treatment is carried on indoors | 500 tonnes |
| 040222, 150109, 191208, 200110, 200111 | Textiles and clothes | 1,000 tonnes where treatment is carried on outdoors<br>3,000 tonnes where treatment is carried on indoors | 1,000 tonnes |

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

(a) subject to paragraph (d), the total quantity of waste treated over any 7-day period does not exceed the limit specified in the third column of the table in sub-paragraph (2),

(b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table,

(c) no waste is stored for longer than 12 months,

(d) where the treatment involves pulverising waste—

(i) the total quantity of waste treated over any 7-day period does not exceed 5 tonnes;

(ii) the treatment is carried on indoors,

(e) where the treatment involves densifying waste, the treatment does not involve the application of heat,

(f) the treatment and storage are carried on in a secure place,

(g) the waste arrives at the place where the operation is carried on unmixed with any other type of waste,

(h) the waste is treated and stored in an unmixed state, and

(i) in relation to relevant waste to which any one of codes 030308, 030307, 150101, 191201, 200101 (paper and cardboard) applies—

(i) the waste is stored in a baled form, in a container or indoors;

(ii) within the storage limit specified in the fourth column of the table, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter.

**Screening and blending of waste (T5)**

**5.**—(1) The treatment of relevant waste by screening and blending it for the purposes of producing an aggregate or soil and associated prior treatment.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 010408 | Waste gravel and crushed rocks other than those mentioned in 010407 |
| 010409 | Waste sand and clays |

| *Codes* | *Waste types* |
|---|---|
| 020202 | Shellfish shells from which the soft tissue or flesh has been removed only |
| 030101 | Untreated waste bark and cork only |
| 030301 | Untreated waste bark and wood |
| 100101 | Bottom ash, slag and boiler dust (excluding boiler dust mentioned in 100104) |
| 100115 | Bottom ash, slag and boiler dust from co-incineration other than those mentioned in 100114 |
| 170101 | Concrete |
| 170102 | Bricks |
| 170103 | Tiles and ceramics |
| 170107 | Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 170106 |
| 170201 | Untreated wood only |
| 170302 | Bituminous mixtures other than those mentioned in 170301 |
| 170504 | Soil and stones other than those mentioned in 170503 |
| 170506 | Dredging spoil other than those mentioned in 170505 |
| 170508 | Track ballast other than those mentioned in 170507 |
| 190599 | Compost produced pursuant to a treatment described in paragraphs T23 or T26 only |
| 191205 | Glass |
| 191209 | Aggregates only |
| 191212 | Gypsum recovered from construction materials only |
| 191302 | Solid wastes from soil remediation other than those mentioned in 191301 |
| 191304 | Sludges from soil remediation other than those mentioned in 191303 |
| 200202 | Soil and stones |

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

(a) in relation to any relevant waste to which code 170302 (bituminous mixtures other than those mentioned in 170301) applies where the treatment is for the purpose of manufacturing roadstone, the total quantity of waste treated or stored over any 3-year period does not exceed 50,000 tonnes,

(b) in relation to relevant waste not covered by paragraph (a), the total quantity of waste treated or stored over any 3-year period does not exceed 5,000 tonnes,

(c) no waste is stored for longer than 12 months, and

(d) the treatment is carried on at the place—

(i) of production, or

(ii) where the treated waste is to be used.

(4) In this paragraph, "associated prior treatment" means crushing relevant waste for the purposes of screening or blending it but does not include crushing of any relevant waste which falls within Part B of Section 3.5 of Part 2 of Schedule 1 or within paragraph T7.

**Treatment of waste wood and waste plant matter by chipping, shredding, cutting or pulverising (T6)**

**6.**—(1) The treatment of relevant waste by chipping, shredding, cutting or pulverising it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020103, 200201 | Plant tissue waste |
| 030101,030301, 170201 | Wood |
| 150103 | Wooden packaging only |

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

(a) the total quantity of waste treated or stored over any 7-day period does not exceed 500 tonnes, and

(b) no waste is stored for longer than 3 months after treatment.

**Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size (T7)**

**7.**—(1) The treatment of relevant waste by crushing, grinding or reducing it in size but not including any treatment activity covered by paragraph (c) in Part B of Section 3.5 of Part 2 of Schedule 1.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 170101 | Concrete |
| 170102 | Bricks |
| 170103 | Tiles and ceramics |
| 170107 | Mixtures of concrete, bricks, tiles and ceramics (other than those mentioned in 170106*) |

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

(a) the total quantity of waste treated over any period of 1 hour does not exceed 20 tonnes,

(b) the total quantity of waste stored at any one time does not exceed 200 tonnes,

(c) the waste is stored in a secure place prior to treatment,

(d) the treatment is carried on—

(i) at the place of production, or

(ii) at the place where the treated waste is to be used, and

(e) the operation does not result in the release into the air of a substance listed in paragraph 6(3) of Part 1 of Schedule 1 except in a quantity which is so trivial that it is incapable of causing pollution or its capacity to cause pollution is insignificant.

**Mechanical treatment of end-of-life tyres (T8)**

**8.**—(1) The treatment of end-of-life tyres, including such tyres in a shredded or granulated form that are relevant waste by a relevant treatment operation and associated prior treatment.

(2) The table specifying relevant waste and relevant treatment operations for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* | *Relevant treatment operation* |
|---|---|---|
| 160103 | End-of-life tyres | Granulating, baling, peeling, shaving, shredding and re-treading of tyres |
| 191204 | Shredded or granulated end-of-life tyres only | Granulating |

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

(a) the total quantity of waste stored or treated over any 7-day period does not exceed—

(i) 60 tonnes of truck tyres, or

(ii) 40 tonnes of any other tyres,

(b) within the limits in paragraph (a), the total quantity stored together does not exceed 10 tonnes,

(c) in relation to any relevant treatment operation that is granulating, the treatment is carried on indoors, and

(d) in relation to any relevant treatment operation that is re-treading, the treatment is for the purposes of re-using the waste.

(4) In this paragraph, "associated prior treatment" means cleaning tyres and separating rims from them prior to treatment.

**Recovery of scrap metal (T9)**

**9.**—(1) The recovery of scrap metal consisting of relevant waste by—

(a) sorting, grading, shearing by manual feed, baling or crushing it, or

(b) cutting it with hand-held equipment.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020110 | Waste metal |
| 150104 | Metallic packaging |
| 160117, 191202 | Ferrous metal |
| 160118, 191203 | Non-ferrous metal |
| 170401 | Copper, bronze, brass |
| 170402 | Aluminium |
| 170403 | Lead |
| 170404 | Zinc |
| 170405 | Iron and steel |
| 170406 | Tin |
| 170407 | Mixed metals |
| 170411 | Cables other than those mentioned in 170410 |
| 200140 | Metals |

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

(a) the total quantity of waste treated or stored at any one time does not exceed 1,000 tonnes,

(b) within the limit in paragraph (a), the total quantity of any cables stored or treated does not exceed 50 tonnes,

(c) no waste is stored for longer than 24 months,

(d) the recovery is carried on at a location with sealed drainage, and

(e) the height of any pile or stack of waste does not exceed 5 metres.

**Sorting mixed waste (T10)**

**10.**—(1) The sorting of one type of relevant waste from one or more other types of relevant waste.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 150101, 200101 | Paper and cardboard |
| 150102, 200139 | Plastics |
| 150104, 200140 | Metals |
| 150105 | Composite packaging |

| *Codes* | *Waste types* |
|---|---|
| 150106 | Mixed packaging |
| 150107, 200102 | Glass |
| 150109, 200110, 200111 | Textiles and clothing only |

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

(a) the total quantity of waste stored at any one time does not exceed 10 tonnes,

(b) the total quantity of waste treated over any 7-day period does not exceed 10 tonnes, and

(c) the waste is stored in a secure place.

**Repair or refurbishment of WEEE (T11)**

**11.**—(1) The treatment of WEEE that is relevant waste by repairing, refurbishing or dismantling it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 160211* | WEEE containing CFCs, HCFCs and HFCs |
| 160213* | WEEE containing hazardous components other than those mentioned in 160209 to 160212 |
| 160214 | WEEE other than those mentioned in 160209 to 160213 |
| 160216 | Components removed from discarded equipment other than those mentioned in 160215 |
| 200123* | WEEE containing CFCs |
| 200135* | WEEE other than those mentioned in 200121 and 200123 containing hazardous components |
| 200136 | WEEE other than those mentioned in 200121, 200123, and 200135 |

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

(a) the total quantity of waste treated or stored over any 12-month period does not exceed 1,000 tonnes,

(b) best available treatment, recovery and recycling techniques are used,

(c) the waste is stored in accordance with paragraph 1 of Annex VIII to the WEEE Directive,

(d) the waste is treated in accordance with paragraph 2 of Annex VIII to the WEEE Directive,

(e) the minimum recovery targets set out in Annex V to the WEEE Directive are met,

(f) the operation meets the technical requirements specified in Annex VIII to the WEEE Directive,

(g) in relation to any relevant waste falling within codes 160211* (WEEE containing CFCs, HCFCs and HFCs) or 200123* (WEEE containing CFCs), the waste is stored in such a manner so as to prevent the release of CFCs, HCFCs and HFCs,

(h) the waste is stored in such a manner that its environmentally sound re-use or recycling is not hindered,

(i) the operation is for the purposes of—

(i) re-using the WEEE for its original purpose,

(ii) re-using any dismantled components for their original purpose, or

(iii) dismantling the WEEE components for the purposes of recovery, and

(j) in relation to dismantling, any fluids are removed and further treatment carried out in accordance with Annex VII to the WEEE Directive.

(4) In this paragraph—

"best available treatment, recovery and recycling techniques" has the meaning given in the document published jointly by the Department for Environment, Food and Rural Affairs, the Welsh Assembly Government and the Scottish Executive on 27th November 2006, entitled "Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE)"(**a**);

"CFCs" means chlorofluorocarbons;

"HCFCs" means hydrochlorofluorocarbons;

"HFCs" means hydrofluorocarbons;

"treatment" does not include the degassing or capture of ozone depleting substances.

**Manual treatment of waste (T12)**

**12.**—(1) The manual treatment of relevant waste by a relevant treatment operation.

(2) The table below specifies—

(a) relevant waste for the purposes of this paragraph and relevant treatment operations,

(b) the quantity limits referred to in sub-paragraph (3)(a), and

(c) the additional specific conditions referred to in sub-paragraph (3)(c).

| *Codes* | *Waste types* | *Relevant treatment operation* | *Quantity limits (at any one time)* | *Additional specific conditions* |
|---|---|---|---|---|
| 200199 | Bicycles only | Sorting, repairing or refurbishing | 100 tonnes | A |
| 200110, 200111 | Clothing, fabrics, carpets only | Sorting, repairing or refurbishing | 100 tonnes | A |
| 200138, 200139, 200140 | Coat hangers only | Sorting and dismantling | 100 tonnes | B |
| 200140 | Domestic pots and pans only | Sorting and dismantling | 100 tonnes | |
| 200199 | Footwear only | Sorting, repairing or refurbishing | 100 tonnes | A |
| 200307 | Furniture only | Sorting, repairing or refurbishing | 100 tonnes | A |
| 200138, 200139, 200140 | Garden tools only | Sorting, repairing or refurbishing | 100 tonnes | A |
| 200138, 200139, 200140 | Lock gates only | Sorting and dismantling | 100 tonnes | |
| 200307 | Mattresses only | Sorting and dismantling | 5 tonnes | B, C |
| 170102, 170201, 170904, 200138 | Stone, bricks, wood only | Sorting, repairing or refurbishing | 500 tonnes | A |
| 200137*, 200138, 200140 | Telegraph poles only | Sorting and dismantling | 100 tonnes | B |
| 170201, 170202, 170203, 200102, 200138, 200139, 200140 | Windows, doors only | Sorting, repairing or refurbishing | 100 tonnes | A |
| 170201, 170202, 170203, 200102, | Windows, doors only | Sorting and dismantling | 10 tonnes | B |

(**a**) See http://archive.defra.gov.uk/environment/waste/producer/electrical/documents/weee-batrrt-guidance.pdf. A copy may be obtained from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY.

| *Codes* | *Waste types* | *Relevant treatment operation* | *Quantity limits (at any one time)* | *Additional specific conditions* |
|---|---|---|---|---|
| 200138, 200139, 200140 | | | | |
| 150103 | Wooden pallets only | Sorting, repairing or refurbishing | 100 tonnes | A |
| 150103 | Wooden pallets only | Sorting and dismantling | 100 tonnes | B |

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

(a) the total quantity of waste treated or stored at any one time does not exceed the limit specified in the fourth column of the table in sub-paragraph (2),

(b) subject to additional specific condition B in paragraph (c), where it applies, no waste is stored for longer than 2 years, and

(c) the operation complies with such of the following additional specific conditions as is specified in the fifth column of the table—

A the operation is for the purposes of reusing the waste;
B no waste is stored for longer than 12 months;
C treatment and storage are carried on indoors.

**Treatment of waste food (T13)**

**13.**—(1) The treatment of waste food that is relevant waste by decanting or unwrapping it, bulking it up and sorting it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020304, 020501, 020601, 020704 | Materials unsuitable for consumption or processing |
| 200199 | Non liquid foods unsuitable for consumption or processing only |

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

(a) the total quantity of waste treated or stored at any one time does not exceed 30 tonnes,

(b) the treatment and storage are carried on—

(i) indoors;

(ii) in a secure place,

(c) no waste is stored for longer than 7 days,

(d) in relation to relevant waste specified in the first row of the table in sub-paragraph (2), where that is milk only, the operation is carried on in a dairy which has sealed drainage, and

(e) any resultant waste packaging is bulked up for the purposes of recovery.

**Crushing and emptying waste vehicle oil filters (T14)**

**14.**—(1) The treatment of waste vehicle oil filters consisting of relevant waste by crushing and emptying them.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 160107* | Oil filters |

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

(a) the total quantity of waste stored after treatment does not exceed 1 tonne of crushed and emptied oil filters at any one time,

(b) the treatment is carried on at the place of production,

(c) the equipment used to treat the waste is—

(i) designed for the purposes of crushing oil filters;

(ii) designed and maintained to ensure that oil does not escape during treatment, and

(d) the treatment takes place as soon as practicable after the oil filter is removed from a vehicle.

**Treatment of waste aerosol cans (T15)**

**15.**—(1) The treatment of empty used waste aerosol cans consisting of relevant waste by puncturing and crushing them.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 160504* | Aerosol cans containing residues of or contaminated by hazardous substances only |
| 160505 | Aerosol cans only |

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

(a) the total quantity of waste treated or stored in any 12-month period does not exceed 3,000 cans,

(b) the waste is stored in a secure location in vented containers prior to treatment,

(c) the treatment and storage are carried on—

(i) at the place of production;

(ii) in a well-ventilated area, and

(d) the equipment used to treat the waste is designed for that purpose.

**Treatment of waste toner cartridges and waste ink cartridges by sorting, dismantling, cleaning or refilling (T16)**

**16.**—(1) The treatment of waste toner cartridges and waste ink cartridges consisting of relevant waste by sorting, dismantling, cleaning or refilling them.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 080313 | Waste ink other than that mentioned in 080312* |
| 080318 | Waste printing toner other than those mentioned in 080317 |
| 150102 | Plastic packaging |
| 160216 | Cartridges taken from discarded equipment other than those mentioned in 160215 only |
| 200139 | Plastics |

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

(a) the total quantity of waste treated or stored at any one time does not exceed 150 tonnes, and

(b) the treatment is carried on—

(i) indoors;

(ii) at a location with sealed drainage.

**Crushing waste fluorescent tubes (T17)**

**17.**—(1) The crushing of relevant waste for the purposes of volume reduction prior to collection.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 200121* | Fluorescent tubes only |

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

(a) the fluorescent tubes were used or intended to be used by the producer of the waste before becoming waste,

(b) the crushing is carried out by the producer of the waste at the place of production,

(c) the total quantity of waste crushed does not exceed 2 tonnes per year,

(d) the equipment used for crushing is owned by the producer,

(e) the mercury exposure limit is not exceeded,

(f) best available treatment, recovery and recycling techniques are used,

(g) the waste is stored in accordance with paragraph 1 of Annex VIII to the WEEE Directive, and

(h) the waste is crushed in accordance with paragraph 2 of Annex VIII to the WEEE Directive.

(4) In this paragraph—

"best available treatment, recovery and recycling techniques" has the meaning given in paragraph 11(4) of this Section;

"mercury exposure limit" means the workplace exposure limit for mercury set out in the document entitled "EH/40/2005 Workplace Exposure Limits" (second edition) issued by the Health and Safety Executive and published in 2011(**a**).

**Dewatering using flocculants (T18)**

**18.**—(1) The treatment of relevant waste by dewatering using flocculants.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 010409 | Clay effluent resulting from the manufacture of ceramics only |
| 080120 | Water based paint wash waters only |

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

(a) the total quantity of waste stored or treated at any one time does not exceed 30,000 litres, and

(b) the waste is stored in a container with secondary containment.

**Physical and chemical treatment of waste edible oil and fat to produce biodiesel (T19)**

**19.**—(1) The physical and chemical treatment of relevant waste for the purposes of producing biodiesel.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 200125 | Edible oil and fat |

(**a**) See http://www.hse.gov.uk/pubns/priced/eh40.pdf. A copy may be obtained by writing to Health and Safety Executive Books at PO Box 1999, Sudbury, Suffolk CO10 2WA or via https://books.hse.gov.uk/hse/public/home.jsf.

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

(a) the total quantity of waste physically treated or stored at any one time does not exceed 5,000 litres,

(b) the total quantity of waste chemically treated at any one time does not exceed 250 litres,

(c) the waste is treated and stored in a container with secondary containment,

(d) no waste is stored for longer than 3 months, and

(e) the operation is for the purpose of reusing the waste.

**Treatment of waste at a water treatment works (T20)**

**20.**—(1) The treatment of relevant waste at a water treatment works.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 190902 | Sludges from water clarification |
| 190903 | Sludges from decarbonation |
| 190906 | Solutions and sludges from regeneration of ion exchangers |
| 190999 | Waste water and bore hole flushings only |

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

(a) the total quantity of waste treated at the works over any period of 12 months does not exceed 10,000 cubic metres, and

(b) the waste is treated and stored in a secure location with sealed drainage.

**Recovery of waste at a waste water treatment works (T21)**

**21.**—(1) The recovery of relevant waste at a waste water treatment works.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 190801 | Screenings |
| 190802 | Sewage grit (waste from desanding) only |
| 190805 | Sludges from treatment of urban waste water |
| 190899 | Centrate liquor only |
| 190902 | Sludges from water clarification |
| 190903 | Sludges from decarbonation |
| 190906 | Solutions and sludges from regeneration of ion exchangers |
| 200304 | Septic tank sludge |
| 200306 | Waste from sewage cleaning |
| 200399 | Cesspool waste and other sewage sludge only |

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

(a) the total quantity of waste brought to the works over any period of 12 months does not exceed 100,000 cubic metres, and

(b) the waste is treated and stored in a secure location with sealed drainage.

**Recovery of central heating oil by filtration**

**22.**—(1) The recovery of central heating oil by filtering relevant waste.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 130701* | Central heating oil only |

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

(a) the total quantity of waste treated over any 7-day period does not exceed 400 litres,

(b) the waste is stored with secondary containment,

(c) the treatment is carried on at a location with sealed drainage, and

(d) the operation is for the purpose of reusing the waste.

**Aerobic composting and associated prior treatment (T23)**

**23.**—(1) The treatment of relevant waste by aerobic composting and associated prior treatment.

(2) The tables specifying relevant waste for the purposes of this paragraph are set out below.

**Table 1**

| *Codes* | *Waste types* |
|---|---|
| 170506 | Plant tissue waste from inland waters only |
| 020103, 200201 | Plant tissue waste |
| 020106 | Horse manure and farmyard manure only |
| 020107 | Biodegradable waste from forestry only |
| 020199 | Fully biodegradable animal bedding |
| 200101 | Paper and cardboard |
| 200201 | Biodegradable waste plant matter only |

**Table 2**

| *Codes* | *Waste types* |
|---|---|
| 020202 | Animal tissue waste |
| 020501, 020601 | Materials unsuitable for consumption or processing |
| 200108 | Biodegradable kitchen and canteen waste |
| 200302 | Biodegradable waste from markets only |

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

(a) the total quantity of waste treated or stored at any one time does not exceed 80 tonnes where—

(i) the operation is carried on at the place of production, and

(ii) the treated waste is being or is to be used at that place,

(b) the total quantity of waste treated or stored at any one time does not exceed 60 tonnes where—

(i) the waste is produced at a place other than where the operation is carried on, or

(ii) the treated waste is not to be used at the place where the operation is carried on,

(c) within the quantity limits in paragraphs (a) and (b), the waste does not consist at any one time of more than the following quantities—

(i) 10 tonnes of paper or cardboard;

(ii) 20 tonnes of manure;

(iii) 10 tonnes of any relevant waste listed in Table 2,

(d) in relation to relevant waste listed in Table 1, no waste is stored for longer than 1 month prior to treatment,

(e) in relation to relevant waste listed in Table 2, no waste is stored for longer than 7 days prior to treatment,

(f) no waste is stored for a period of longer than 12 months after treatment, and

(g) the treatment results in a stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land.

(4) In this paragraph—

"aerobic composting" means the autothermic and thermophilic biological decomposition and stabilisation of biodegradable waste under controlled conditions that are aerobic;

"associated prior treatment" means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of aerobic composting.

**Anaerobic digestion at premises used for agriculture and burning of resultant biogas (T24)**

**24.**—(1) The treatment by anaerobic digestion of relevant waste at premises used for agriculture and associated prior treatment and the burning of any resultant biogas.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020103, 020107, 170506, 200201 | Plant tissue waste |
| 020106 | Horse and farmyard manure, slurry only |
| 020199 | Fully biodegradable animal bedding |

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

(a) the total quantity of waste treated or stored at any one time does not exceed 1,250 cubic metres,

(b) the minimum retention time for the waste in the digester is 28 days, and

(c) any gas resulting from the operation is collected and then burnt in an appliance—

(i) where the requirements of sub-paragraph (5) are met, and

(ii) the appliance is for the purposes of producing energy.

(4) In this paragraph, "associated prior treatment" means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of anaerobic digestion.

(5) The requirements in this sub-paragraph are that—

(a) the appliance has a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

**Anaerobic digestion at premises not used for agriculture and burning of resultant biogas (T25)**

**25.**—(1) The treatment by anaerobic digestion of relevant waste at premises not used for agriculture and associated prior treatment and the burning of any resultant biogas.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020103, 020107, 170506, 200201 | Plant tissue waste |
| 020106 | Horse and farmyard manure only |
| 020199 | Fully biodegradable animal bedding |
| 200101 | Paper and cardboard |
| 200108 | Biodegradable kitchen and canteen waste |
| 020202 | Animal tissue waste |

| *Codes* | *Waste types* |
|---|---|
| 020501, 020601 | Materials unsuitable for consumption or processing |
| 200302 | Biodegradable waste from markets only |

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

(a) the total quantity of waste treated or stored at any one time does not exceed 50 cubic metres,

(b) the minimum retention time for the waste in the digester is 28 days, and

(c) any gas resulting from the operation is collected and then burnt in an appliance—

(i) where the requirements of sub-paragraph (5) are met, and

(ii) the appliance is for the purposes of producing energy.

(4) In this paragraph, "associated prior treatment" means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of anaerobic digestion.

(5) The requirements in this sub-paragraph are that—

(a) the appliance has a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

**Treatment of kitchen waste in a wormery (T26)**

**26.**—(1) The treatment in a wormery of relevant waste originating from a kitchen.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 200101 | Paper and cardboard |
| 200108 | Biodegradable kitchen and canteen waste |

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

(a) the total quantity of waste treated over any 12-month period does not exceed 6 tonnes, and

(b) the treatment results in a stable sanitised vermicompost that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land.

**Treatment of sheep dip using organophosphate-degrading enzyme (T27)**

**27.**—(1) The treatment of used organophosphate sheep dip consisting of relevant waste for the purposes of its disposal.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020109 | Organophosphate sheep dip only |

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

(a) total quantity of waste treated or stored over any 24-hour period does not exceed 8,000 litres,

(b) the waste is treated using organophosphate-degrading enzyme in accordance with the enzyme manufacturer's instructions,

(c) the treatment and storage are carried on at the place of production, and

(d) the treatment is carried on in a secure container located within a drain pen or in a secure sheep dip bath.

(4) In this paragraph, "drain pen" means an impermeable area draining back to the sheep dip bath where newly-dipped sheep are held while they continue to drip.

**Sorting and de-naturing of controlled drugs for disposal (T28)**

**28.**—(1) The treatment of controlled drugs consisting of relevant waste by sorting and de-naturing them prior to their disposal.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 180109 | Medicines from natal care, diagnosis, treatment or prevention of disease in humans |
| 180208 | Medicines from research, diagnosis, treatment or prevention of disease involving animals |
| 200132 | Medicines separately collected as municipal waste |

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

(a) the total quantity of waste treated or stored at any one time does not exceed 1 cubic metre,

(b) the treatment and storage are carried on at the place of production, and

(c) no waste is stored for longer than 6 months.

(4) In this paragraph, "controlled drug" means a controlled drug specified in Schedules 1 to 5 to the Misuse of Drugs Regulations 2001(**a**).

**Treatment of non-hazardous pesticide washings by carbon filtration for disposal (T29)**

**29.**—(1) The treatment of non-hazardous pesticide washings that are relevant waste by carbon filtration for the purposes of disposal.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020109, 160509 | Non-hazardous pesticide washings only |

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

(a) the total quantity of waste treated or stored over any 24-hour period does not exceed 8,000 litres,

(b) the treatment and storage are carried on at the place of production, and

(c) the treatment is carried on in a location with sealed drainage.

**Recovery of silver (T30)**

**30.**—(1) The recovery of silver from relevant waste produced in connection with printing or photographic processes.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 090106* | Wastes containing silver from on-site treatment of photographic wastes |
| 090107 | Photographic film or paper containing silver or silver compounds |

(**a**) S.I. 2001/3998; relevant amending instruments are S.I. 2003/1432, 2005/1653, 2864, 3372, 2007/2154, 2009/3136, 2010/1144, 1799, 2011/448, 2012/973, 1311, 2013/176, 625, 2014/1275, 1377, 3277, 2015/231 and 891.

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

(a) the total quantity of waste stored or treated at any one time does not exceed 1,000 litres, and

(b) the treatment and storage are carried on in a location with sealed drainage.

**Recovery of monopropylene glycol from aircraft antifreeze fluids (T31)**

**31.**—(1) The recovery of monopropylene glycol by filtering and distilling relevant waste collected following de-icing of aircraft.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 160115 | Antifreeze fluids other than those mentioned in 160114 |

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

(a) the total quantity of waste treated or stored over any 7-day period does not exceed 250 cubic metres,

(b) the waste is treated in a location with sealed drainage,

(c) the operation is carried on at the place where the waste is produced, and

(d) the waste is stored with secondary containment.

**Treatment of waste in a biobed or biofilter (T32)**

**32.**—(1) The treatment of relevant waste in a lined biobed or above ground biofilter.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020109, 160509 | Non-hazardous pesticide washings only |

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

(a) the total quantity of waste treated or stored over any 12-month period does not exceed 15,000 litres,

(b) the biobed or biofilter is located at a secure place that is—

(i) at least 10 metres from a watercourse;

(ii) at least 50 metres from a spring or well or from any borehole not used to supply water for domestic or food production purposes;

(iii) at least 250 metres from any borehole used to supply water for domestic or food production purposes;

(iv) not within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction that is used to supply water for domestic or food production purposes,

(c) the biobed or biofilter—

(i) is designed and maintained for the treatment operation;

(ii) has an impermeable lining, and

(d) the treatment is carried on at the place of production.

## CHAPTER 4

## Disposal of waste

### SECTION 1

### *Introductory*

**1.**—(1) The descriptions in this Chapter—

(a) are set out in the first sub-paragraph of paragraphs D1 to D8, and

(b) include associated storage.

(2) The specific conditions for each description in this Chapter are set out in the third sub-paragraph of paragraphs D1 to D8.

(3) The general condition for all descriptions in this Chapter is that the operation is carried on at the place of production.

SECTION 2

*Descriptions and specific conditions*

**Deposit of waste from dredging of inland waters (D1)**

**1.**—(1) The deposit of relevant waste arising from the dredging of inland waters and associated screening and dewatering.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 170506 | Dredging spoil other than those mentioned in 170505 |

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

(a) the total quantity of waste deposited or treated over any 12-month period does not exceed 50 cubic metres for each metre of land on which the waste is deposited, and

(b) the waste is deposited at the closest possible point to where the waste was produced on—

(i) the bank of the inland waters from which the waste was produced, or

(ii) such width of land adjoining the inland waters so as to enable the waste to be removed and deposited by mechanical means in one operation.

**Deposit of waste from a railway sanitary convenience (D2)**

**2.**—(1) The deposit of relevant waste on to a railway track.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 200399 | Wastes from railway sanitary conveniences only |

(3) For the purposes of this paragraph, the specific condition is that the total quantity of waste deposited per discharge does not exceed 25 litres.

(4) In this paragraph, "railway sanitary convenience" means a sanitary convenience or sink forming part of a vehicle used for the carriage of passengers on a railway.

**Deposit of waste from a portable sanitary convenience (D3)**

**3.**—(1) The deposit of relevant waste by burying it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 200399 | Waste from portable sanitary conveniences only |

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

(a) the total quantity of waste deposited over any 12-month period does not exceed 1 cubic metre, and

(b) no waste is deposited within—

(i) 10 metres of any watercourse,

(ii) 50 metres of any spring, well or borehole.

**Deposit of agricultural waste consisting of plant tissue under a Plant Health notice (D4)**

**4.**—(1) The deposit of agricultural waste that is relevant waste.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020103 | Plant tissue waste |

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

(a) the deposit is required under a Plant Health notice,

(b) where waste is deposited into a pile, the pile—

(i) does not exceed 250 tonnes, and

(ii) is not immediately adjacent to another pile of the same type of waste,

(c) at the time the deposit is made—

(i) the land has not been frozen for 12 or more hours in the preceding 24 hours;

(ii) the land is not waterlogged, frozen or snow-covered, and

(d) no waste is deposited within—

(i) 10 metres of any watercourse;

(ii) 50 metres of any spring, well or borehole.

**Depositing samples of waste for the purposes of testing or analysing them (D5)**

**5.**—(1) The deposit and subsequent storage of relevant samples of waste at any place where the samples are being or are to be tested or analysed.

(2) For the purposes of sub-paragraph (1), "relevant samples of waste" means samples of waste that are taken—

(a) in the exercise of any power under—

(i) the Control of Pollution Act 1974(**a**);

(ii) section 5 of the Control of Pollution (Amendment) Act 1989(**b**);

(iii) the 1990 Act;

(iv) the 1991 Act;

(v) the Water Industry Act 1991(**c**);

(vi) the Waste Electrical and Electronic Equipment Regulations 2013(**d**);

(vii) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(**e**);

(viii) regulation 88 of the Waste Batteries and Accumulators Regulations 2009(**f**),

(b) by or on behalf of the holder of an environmental permit,

(c) by or on behalf of a person carrying on in relation to the waste—

(i) an operation described in this Part, or

(ii) an excluded waste operation,

(d) by or on behalf of the owner or occupier of the land from which the samples are taken,

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(**a**) 1974 c. 40.
(**b**) 1989 c. 14; section 5 was substituted, together with section 5A, by section 37 of the Clean Neighbourhoods and Environment Act 2005 (c. 16).
(**c**) 1991 c. 56.
(**d**) S.I. 2013/3113, amended by S.I. 2014/1771, 2015/1968 and 2016/738.
(**e**) S.I. 2007/871, amended by S.I. 2007/3538, 2008/1941, 2010/675, 1159, 1820 (W. 177), 2849, 2011/988, 1043, 2012/3082, 2013/755 (W. 90), 1821, 1857, 2014/2890, 2016/241, 696, and 738.
(**f**) S.I. 2009/890, to which there are amendments not relevant to these Regulations.

(e) by or on behalf of any person to whom section 34(1) or (1A) of the 1990 Act(**a**) applies in connection with that person's duties under that section,

(f) by or on behalf of any person to whom the Transfrontier Shipment of Waste Regulations 2007(**b**) apply in connection with that person's powers under those Regulations, or

(g) for the purposes of research.

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

(a) the total quantity of waste deposited or stored at any one time does not exceed 10 tonnes, and

(b) the waste is not stored for longer than 12 months or such other period as may be ordered in court proceedings.

**Disposal by incineration (D6)**

**6.**—(1) The disposal by incineration of the waste described in sub-paragraph (2) in a small waste incineration plant where the requirements in sub-paragraph (4) are met.

(2) The waste described in this paragraph is the waste mentioned in Article 42(2)(a)(i) and (iii) of the Industrial Emissions Directive.

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

(a) the total quantity of waste stored prior to incineration does not exceed 5 tonnes at any one time, and

(b) the operation is carried on by the person who produced the waste.

(4) The requirements in this sub-paragraph are—

(a) the small waste incineration plant has a capacity of less than 50kg per hour and a net rated thermal input of less than 0.4 megawatts, and

(b) where it is used together with other small waste incineration plants (whether or not it is operated simultaneously with such other small waste incineration plants), the aggregate net rated thermal input of all the small waste incineration plants is less than 0.4 megawatts.

**Burning waste in the open (D7)**

**7.**—(1) The burning of relevant waste on open land.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020103, 020107, 200201 | Plant tissue |
| 030105 | Sawdust, shavings and cuttings from untreated wood only |
| 030301 | Waste bark and wood |

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

(a) the total quantity of waste burned over any period of 24 hours does not exceed 10 tonnes,

(b) the total quantity of waste stored at any one time does not exceed 20 tonnes, and

(c) no waste is stored for longer than 6 months.

**Burning waste at a port under a Plant Health notice (D8)**

**8.**—(1) The burning of relevant waste at a port.

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(**a**) Section 34(1) was amended by S.I. 2000/1973, 2007/3528, 2010/675 and 2011/988. Section 34(1A) was inserted by S.I. 2009/1799 and amended by S.I. 2010/675.

(**b**) S.I. 2007/1711, amended by S.I. 2007/3538, 2008/9, 2010/265, 675, 1159, 2011/988, 1043 and 2014/861.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 020103, 020107, 020304, 200201 | Plant tissue only |
| 150103, 200138 | Wood used to wedge or support parts of cargo, including packing material, spacers and pallets only |

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

(a) the total quantity of waste burned or stored over any period of 24 hours does not exceed 10 tonnes,

(b) the burning and storage of waste takes place in a secure place at the port where the waste was unloaded, and

(c) the burning is required under a Plant Health notice.

(4) In this paragraph, "port" means a port appointed by order made under section 19 of the Customs and Excise Management Act 1979(**a**).

## CHAPTER 5

## Storage of waste other than at the place of production pending its recovery or re-use

### SECTION 1

### *Introductory*

**1.**—(1) The descriptions in this Chapter are set out in the first sub-paragraph of paragraphs S1 to S3.

(2) The specific conditions for each of the descriptions in this Chapter are set out in the third sub-paragraph of paragraphs S1 to S3.

(3) The general conditions for all descriptions in this Chapter are that the storage is carried on—

(a) at a place other than the place of production, and

(b) pending the recovery of the waste.

### SECTION 2

### *Storage of waste*

**Storage of waste in secure containers (S1)**

**1.**—(1) The storage of relevant waste at a place in a secure container or containers for the purposes of its recovery elsewhere.

(2) The table specifying relevant waste for the purposes of this paragraph and the storage limits referred to in sub-paragraph (3) is set out below.

| *Codes* | *Waste types* | *Storage limit (at any one time)* |
|---|---|---|
| 130109* to 130113*<br>130204* to 130208*<br>130401* to 130403*<br>130701* | Waste oils | 3 cubic metres |
| 150101, 200101 | Cartons | 400 cubic metres |
| 150102, 200139 | Plastics and plastic packaging | 400 cubic metres |
| 150104, 200140 | Cans and foil only | 400 cubic metres |
| 150101, 200101 | Paper and cardboard | 400 cubic metres |
| 150107, 200102 | Glass | 400 cubic metres |

(**a**) 1979 c. 2.

| *Codes* | *Waste types* | *Storage limit (at any one time)* |
|---|---|---|
| 150109, 200110, 200111 | Textiles and clothes | 400 cubic metres |
| 150202* | Absorbents, filter materials (including oil filters not otherwise specified) wiping cloths, protective clothing contaminated by hazardous substances | 3 cubic metres |
| 150203 | Absorbents, filter materials, wiping cloths and protective clothing other than those mentioned in 150202 | 3 cubic metres |
| 160107* | Oil filters | 3 cubic metres |

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

(a) the total quantity of waste stored at any one time does not exceed the limit specified in the third column in the table in sub-paragraph (2),

(b) the total quantity of storage containers at the storage place at any one time does not exceed 20,

(c) no waste is stored for longer than 12 months,

(d) the person storing the waste is the owner of the container or containers or has the consent of the owner,

(e) in respect of any waste oils and waste to which code 160107* (oil filters) applies, the waste is stored with secondary containment, and

(f) each waste type is stored separately.

**Storage of waste in a secure place (S2)**

**2.**—(1) The storage of relevant waste in a secure place for the purposes of its recovery elsewhere.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3) is set out below.

| *Codes* | *Waste types* | *Storage limit (at any one time)* | *Period* | *Additional specific conditions* |
|---|---|---|---|---|
| 161002 | Aqueous paint related waste only | 1,000 litres | 6 months | A, C |
| 160601*, 160602*, 160603*, 160604, 160605, 200133*, 200134 | Batteries | 10 tonnes | 6 months | A, B |
| 150104, 200140 | Cans and foil only | 500 tonnes | 12 months | |
| 140601* | CFCs, HCFCs and HFCs | 18 tonnes | 6 months | A, C |
| 170101, 170102, 170103, 170107, 170202, 170203, 170401 to 170407, 170504, 170604, 170802 | Construction and demolition waste capable of being used in its existing state (non-hazardous) | 100 tonnes | 12 months | |

| *Codes* | *Waste types* | *Storage limit (at any one time)* | *Period* | *Additional specific conditions* |
|---|---|---|---|---|
| | only | | | |
| 200125 | Edible oil and fat only | 5,000 tonnes | 12 months | A, C |
| 100207* | Electric arc furnace dust only | 2,500 tonnes | 3 months | D, E, F |
| 020104 | Farm plastics (non-packaging) only | 500 tonnes | 12 months | D |
| 070213, 150101, 150102, 150105, 200139 | Food and drink cartons only | 500 tonnes | 12 months | |
| 101112, 150107, 160120, 170202, 191205, 200102 | Glass | 5,000 tonnes | 12 months | B |
| 020102 | Mammalian protein only | 60,000 tonnes | 12 months | D |
| 020202 | Mammalian tallow only | 45,000 tonnes | 12 months | D |
| 200307 | Mattresses only | 5 tonnes | 3 months | D |
| 010408, 191209 | Marble chips only | 5,000 tonnes | 12 months | |
| 020304 | Olive pulp/pellet only | 5,000 tonnes | 3 months | B, C, E |
| 200127*, 200128, 080111*, 080112 | Paints (excluding specialist and industrial paints, wood preservatives, aerosol and spray paints, inks, adhesives and resins) pending re-use as paints only | 10,000 litres | 6 months | A, C |
| 150101, 191201, 200101, 030308, 030307 | Paper and cardboard (excluding food and drink cartons) only | 15,000 tonnes | 12 months | J, K |
| 090107, 090108 | Photographic films and papers | 50 tonnes | 12 months | J |
| 070213, 120105, 150102, 160119, 191204, 200139 | Plastic | 500 tonnes | 12 months | |
| 100101 | Poultry litter ash only | 3,000 tonnes | 12 months | D, E |
| 080318, 150102, 160216, 200139 | Printer cartridges only | 5,000 units | 6 months | D |
| 170301*, 170302, 170504 | Road planings, waste road chippings, road sub-base only | 500 tonnes | 12 months | |

| *Codes* | *Waste types* | *Storage limit (at any one time)* | *Period* | *Additional specific conditions* |
|---|---|---|---|---|
| 020110, 160117, 160118, 191203, 170401, 170402, 170403, 170404, 170405, 170406, 170407, 191202, 170411 | Scrap metal | 15,000 tonnes | 6 months | B, E |
| 090110, 090111*, 090112 | Single use cameras | 400 cubic metres | 6 months | |
| 020401, 020399 | Soils from cleaning fruit and vegetables only | 100 tonnes | 6 months | |
| 100316, 100405*, 100504, 100511, 100604, 100811, 100899 | Solder metal, skimmings, ashes and residues | 100 tonnes | 3 months | G |
| 140602*, 140603*, 200113* | Solvents and solvent mixtures | 5 cubic metres | 6 months | A, C |
| 100101, 100102, 100105, 100115 | Synthetic gypsum and pulverised fuel ash only | 2,500 tonnes | 3 months | D, E, F |
| 040222, 150109, 191208, 200110, 200111 | Textiles and clothes | 1,000 tonnes | 12 months | |
| 160103, 191204 | Tyres, tyre chip and crumb | 40 tonnes | 3 months | H |
| 110113*, 120301*, 160708* | Waste cleaning solution containing 2% sodium metasilicate and 1-2% waste oil only | 3 tonnes | 3 months | A, C |
| 160211*,160213*, 160214, 160216, 200121*, 200123*, 200135*, 200136 | WEEE | 400 cubic metres | 6 months | I |
| 030301, 150102, 150103, 200138 | Wine bottle corks only | 500 tonnes | 12 months | |
| 030105, 170201, 170204*,191206*, 191207, 200137*, 200138 | Wood including telegraph poles and railway sleepers (hazardous and non-hazardous) | 100 tonnes | 12 months | 030105, 170201, 170204*, 191206*, 191207, 200137*, 200138 |

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

(a) the total quantity of waste stored at any one time does not exceed the limit specified in the third column of the table in sub-paragraph (2),

(b) no waste is stored for longer than the period specified in the fourth column of the table,

(c) each type of waste is stored separately, and

(d) the operation complies with such of the following additional conditions as are specified in the fifth column of the table—

| | |
|---|---|
| A | the waste is stored in a container; |
| B | the storage place has sealed drainage; |
| C | the waste is stored with secondary containment; |
| D | the waste is stored indoors; |
| E | the waste is stored at a dock prior to being exported or after being imported; |
| F | the waste must arrive at the storage place in bags and must be stored there in bags or in drums; |
| G | the waste is stored in bags or in drums; |
| H | the total quantity of waste stored together does not exceed 10 tonnes; |
| I | the waste is stored in accordance with the requirements in paragraph 1 of Annex VIII to the WEEE Directive; |
| J | the waste is stored in a baled form, in a container or indoors; |
| K | within the quantity limit specified in the third column of the table and notwithstanding additional specific condition J, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter. |

**Storage of sludge (S3)**

**3.**—(1) The storage of relevant waste.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

| *Codes* | *Waste types* |
|---|---|
| 190805 | Residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters only |
| 200304 | Residual sludge from septic tanks and other similar installations for the treatment of sewage only |

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

(a) the total quantity of waste stored at any one time does not exceed 1,250 tonnes,

(b) no waste is stored for longer than 12 months,

(c) the waste is stored in a secure location at the place where it is to be used,

(d) the waste is stored at least—

(i) 10 metres from any watercourse;

(ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes;

(iii) 250 metres from any borehole used to supply water for domestic or food production purposes,

(e) no waste is stored—

(i) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction that is used to supply water for domestic or food production purposes;

(ii) within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon, and

(f) after storage, the waste is to be used in accordance with the Sludge (Use in Agriculture) Regulations 1989(**a**).

# PART 2

## Exempt water discharge activities: descriptions and conditions

**Vegetation management activities**

**1.**—(1) For the purpose of paragraphs 5(a)(i) and 6(a)(i) of Schedule 2, the description is cutting or uprooting a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them, where it is not reasonable to take steps to remove the vegetation from those waters.

(2) For the purpose of paragraphs 5(a)(ii) and 6(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are that—

(a) prior notice of the dates of the water discharge activity is given to persons likely to be affected by such an activity, including—

(i) the owner of any structure within or on the watercourse,

(ii) the owner of any designated site within or on the watercourse,

(iii) fisheries interests,

(iv) boating interests,

(v) the appropriate agency,

(vi) the local authority,

(vii) the internal drainage board (which has the same meaning as in the Land Drainage Act 1991(**b**)), and

(b) the activity is not carried on if there is insufficient flow to convey the vegetation.

(3) In sub-paragraph (3)(a)(ii), "designated site" means—

(a) a European site (which has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2010(**c**)),

(b) a Ramsar site (which has the same meaning as in section 37A of the Wildlife and Countryside Act 1981(**d**)),

(c) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981(**e**)), or

(d) a nature reserve established by a local authority under section 21 of the National Parks and Access to the Countryside Act 1949(**f**).

**Small discharges of sewage effluent: Wales**

**2.**—(1) For the purpose of paragraph 5(a)(i) of Schedule 2, the description is the discharge from a sewage treatment plant of 5 cubic metres per day or less of sewage effluent into inland freshwaters, coastal waters or relevant territorial waters.

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(**a**) S.I. 1989/1263, amended by S.I. 1990/880, 1996/593, 973, 2000/656, 2010/1159, 1820 (W. 177) and 2013/755 (W. 90).
(**b**) 1991 c. 59.
(**c**) S.I. 2010/490, amended by S.I. 2012/1927; there are other amending instruments but none is relevant.
(**d**) 1981 c. 69; section 37A was inserted by section 77 of the Countryside and Rights of Way Act 2000 (c. 37) and was amended by paragraph 86 of Part 1 of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c. 16), by paragraphs 5 and 7 of Schedule 2 to the Planning (Wales) Act 2015 (anaw. 4) and by S.I. 2013/755 (W. 90).
(**e**) The definition was inserted by paragraph 5(2) of Schedule 9 to the Countryside and Rights of Way Act 2000.
(**f**) 1949 c. 97; section 21 was amended by Schedule 30 to the Local Government Act 1972 (c. 70), by paragraphs 15(e) and 19 of Part 1 of Schedule 11 to the Natural Environment and Rural Communities Act 2006, and by paragraph 1 of Part 1 of Schedule 2 to the Environment (Wales) Act 2016 (anaw. 3).

(2) For the purpose of paragraph 5(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are—

(a) in the case of a discharge which takes place for the first time on or after the date on which these Regulations come into force, that all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in the document entitled "Guidance for the registration of small sewage effluent discharges", issued by the NRBW and dated July 2011 and updated in September 2016(**a**), in relation to—

(i) design and manufacturing standards,

(ii) construction, installation and operation specifications,

(iii) siting and installation, and

(iv) the capacity of the works and equipment;

(b) that the discharge cannot reasonably, at the time it is first made, be made to the foul sewer;

(c) that the discharge does not contain trade effluent;

(d) that all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;

(e) that records of maintenance work are kept by the person who is the occupier of the land on which the discharge is made ("the occupier") for at least 5 years after the work is carried out;

(f) that the occupier must notify the exemption registration authority if an exempt water discharge activity ceases to be in operation;

(g) that the occupier must ensure that all works and equipment used for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering inland freshwaters or coastal waters;

(h) that, before an occupier ceases to be in occupation of land on which an exempt water discharge activity is carried on, the occupier must give to the person who will next be in occupation of the land a written notice—

(i) stating that an exempt water discharge activity is being carried on on the land,

(ii) containing a description of the exempt facility,

(iii) stating the conditions that must be satisfied in relation to the exempt facility, and

(iv) accompanied by any records of maintenance mentioned in paragraph (e).

**Small discharges of sewage effluent: England**

**3.**—(1) For the purpose of paragraph 6(a)(i) of Schedule 2, the description is the discharge from a sewage treatment plant of 5 cubic metres per day or less of sewage effluent into inland freshwaters, coastal waters or relevant territorial waters.

(2) For the purpose of paragraph 6(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are that an operator of the sewage treatment plant ensures that—

(a) all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in the document entitled "General binding rules for small sewage discharges (SSDs) with effect from January 2015" issued by the Agency

(**a**) See https://naturalresources.wales/media/679226/guidance-for-the-registration-of-small-sewage-effluent-discharges.pdf and https://naturalresources.wales/media/679225/canllawiau-ar-gyfer-cofrestru-gollyngiadau-elifion-carthion-bach.pdf. A copy may be obtained from Natural Resources Wales, c/o Customer Care Centre, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

and the Department for Environment, Food and Rural Affairs and published on 27th October 2014 and updated on 21st January 2015(**a**) in relation to—

(i) design and manufacturing standards,

(ii) construction, installation and operation specifications,

(iii) siting and installation, and

(iv) the capacity of the works and equipment;

(b) in the case of a discharge which takes place for the first time on or after 1st January 2015, the discharge could not reasonably be made to the foul sewer;

(c) the discharge does not contain trade effluent;

(d) all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;

(e) all works and equipment used for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of polluting matter entering inland freshwaters or coastal waters;

(f) before the land or part of the land on which the sewage treatment plant is situated or being used is sold, an owner of the land or part of the land gives to the purchaser a written notice—

(i) stating that an exempt water discharge activity is being carried on on the land, and

(ii) containing a description of the exempt facility.

(3) For the purposes of this paragraph, an operator is a person who has control over the operation of the sewage treatment plant by reason of—

(a) being an owner of the land on which the sewage treatment plant is situated or being used, or

(b) having entered into a written agreement with the owner of the land on which the sewage treatment plant is situated or being used to be responsible for the maintenance of the sewage treatment plant.

# PART 3

## Exempt groundwater activities: descriptions and conditions

### Interpretation of Part 3

**1.** In this Part—

"groundwater tracer test" means a study of—

(a) the behaviour or movement of water, or

(b) a contaminant below ground,

which involves the addition to groundwater of a distinguishable material which has nearly identical properties to the contaminant or water being studied;

"small quantity of substance" is to be construed in accordance with the final paragraph of Article 11(3)(j) of the Water Framework Directive;

"specified groundwater remediation scheme" means a remediation scheme which involves the addition of a substance or preparation to groundwater which enhances the rate of remediation of groundwater contaminants;

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(**a**) See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397173/ssd-general-binding-rules.pdf. A copy may be obtained from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY.

"water features" includes boreholes, wells, adits, springs, seepage and wetland areas, ponds, lakes and watercourses;

"water features survey" means a survey of all water features within 1 kilometre of the proposed activity that may be affected by it.

**Discharge of small quantities of substances for scientific purposes**

**2.**—(1) For the purpose of paragraphs 7(a)(i) and 8(a)(i) of Schedule 2, the description is the discharge of small quantities of substances for scientific purposes as part of—

(a) a specified groundwater remediation scheme, or

(b) a groundwater tracer test.

(2) For the purpose of paragraphs 7(a)(ii) and 8(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

(a) that a water features survey has demonstrated that the discharge will not cause pollution;

(b) that the prior consent of every person having a right to abstract water in the vicinity of the discharge has been obtained;

(c) that the exemption registration authority is notified before the commencement of the discharge;

(d) that in the case of discharges as part of a specified groundwater remediation scheme, monitoring of the discharge, to determine whether pollution has been caused, is undertaken.

**Small discharges of sewage effluent: Wales**

**3.**—(1) For the purpose of paragraph 7(a)(i) of Schedule 2, the description is a discharge from a septic tank or sewage treatment plant of 2 cubic metres per day or less of sewage effluent that results in the input of pollutants to groundwater.

(2) For the purpose of paragraph 7(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

(a) in the case of a discharge which takes place for the first time on or after the date on which these Regulations come into force, that all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in the document entitled "Guidance for the registration of small sewage effluent discharges", issued by the NRBW and dated July 2011 and updated in September 2016, in relation to—

(i) design and manufacturing standards,

(ii) construction, installation and operation specifications,

(iii) siting and installation of infiltration systems, and

(iv) the capacity of the works and equipment;

(b) that the discharge cannot reasonably, at the time it is first made, be made to the foul sewer;

(c) that the discharge does not contain trade effluent;

(d) that the discharge does not result in an input of pollutants to groundwater—

(i) within 50 metres of a point at which water is abstracted from underground strata, or

(ii) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;

(e) that all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;

(f) that records of maintenance work are kept by the person who is the occupier of the land on which the discharge is made ("the occupier") for at least 5 years after the work is carried out;

(g) that the occupier must notify the exemption registration authority if an exempt groundwater activity ceases to be in operation;

(h) that the occupier must ensure that all works and equipment for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering groundwater;

(i) that before an occupier ceases to be in occupation of land on which an exempt groundwater activity is carried on, the occupier must give to the person who will next be in occupation of the land a written notice—

(i) stating that an exempt groundwater activity is being carried on on the land,

(ii) containing a description of the exempt facility,

(iii) stating the conditions that must be satisfied in relation to the exempt facility, and

(iv) accompanied by any records of maintenance mentioned in paragraph (f).

**Small discharges of sewage effluent: England**

**4.**—(1) For the purpose of paragraph 8(a)(i) of Schedule 2, the description is a discharge from a septic tank or sewage treatment plant of 2 cubic metres per day or less of sewage effluent that results in the input of pollutants to groundwater.

(2) For the purpose of paragraph 8(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are that an operator of the septic tank or sewage treatment plant ensures that—

(a) all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in the document entitled "General binding rules for small sewage discharges (SSDs) with effect from January 2015" issued by the Agency and the Department for Environment, Food and Rural Affairs and published on 27th October 2014 and updated on 21st January 2015 in relation to—

(i) design and manufacturing standards,

(ii) construction, installation and operation specifications,

(iii) siting and installation of infiltration systems, and

(iv) the capacity of the works and equipment;

(b) in the case of a discharge which takes place for the first time on or after 1st January 2015, the discharge could not reasonably be made to the foul sewer;

(c) the discharge does not contain trade effluent;

(d) the discharge does not result in an input of pollutants to groundwater—

(i) within 50 metres of a point at which water is abstracted for domestic or food production purposes from underground strata, or

(ii) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;

(e) all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;

(f) all works and equipment for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering groundwater;

(g) before the land or part of the land on which the septic tank or sewage treatment plant is situated or being used is sold, an owner of the land or part of the land gives to the purchaser a written notice—

(i) stating that an exempt groundwater activity is being carried on on the land, and

(ii) containing a description of the exempt facility.

(3) For the purposes of this paragraph, an operator is a person who has control over the operation of the septic tank or sewage treatment plant by reason of—

(a) being an owner of the land on which the septic tank or sewage treatment plant is situated or being used, or

(b) having entered into a written agreement with the owner of the land on which the septic tank or sewage treatment plant is situated or being used to be responsible for the maintenance of the septic tank or sewage treatment plant.

**Open-loop ground source heating and cooling systems**

**5.**—(1) For the purpose of paragraphs 7(a)(i) and 8(a)(i) of Schedule 2, the description is the discharge of water to groundwater from a heating or cooling system to which sub-paragraph (3) applies with altered temperature.

(2) For the purpose of paragraphs 7(a)(ii) and 8(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

(a) that nothing must be added to water discharged from the system;

(b) that the temperature of water discharged from the system—

(i) subject to sub-paragraph (ii), must not exceed 25° C, and

(ii) must not vary by more than 10° C compared to that in the aquifer from which it was abstracted;

(c) that the system must not be on a known contaminated site or have had a previous contaminative use;

(d) that water from the system must not be discharged less than 50 metres from a watercourse or groundwater-fed wetland;

(e) that water from the system must not be discharged—

(i) less than 50 metres from a point at which water is abstracted from underground strata, or

(ii) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;

(f) that the discharge of water from the system must be to the same aquifer as that from which it was abstracted;

(g) that water within the system must not be used for any other purpose.

(3) This sub-paragraph applies to a system—

(a) that involves—

(i) the abstraction of groundwater to obtain heating or (as the case may be) cooling, and

(ii) the subsequent discharge of that water, and

(b) that is—

(i) a cooled aquifer system with a volume of less than 1500 cubic metres per day,

(ii) a balanced system with a volume of less than 430 cubic metres per day, or

(iii) a heated aquifer system with a volume of less than 215 cubic metres per day.

(4) In this paragraph—

"balanced system" means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature is within the range 0.8 to 1.2;

"cooled aquifer system" means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature is less than 0.8;

"groundwater-fed wetland" means a terrestrial ecosystem directly depending on a body of groundwater (within the meaning of the Water Framework Directive) and includes—

(a) a European site (which has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2010(**a**));

(b) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981(**b**));

"heated aquifer system" means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature exceeds 1.2.

# PART 4

## Exempt flood risk activities: descriptions and conditions

### General and interpretation

**1.**—(1) The descriptions in this Part are set out in paragraphs 2 to 28, in their respective first sub-paragraphs.

(2) The specific conditions relating to each description in this Part are set out in paragraphs 2 to 28, in their respective second sub-paragraphs.

(3) The general conditions relating to all descriptions in this Part are that the activity is not carried out—

(a) on a designated site or—

(i) in the case of the description set out in paragraphs 2 to 4, 6, 8, 9, 12, 13, 15, 16, 18 to 20 and 25 to 28, in their respective first sub-paragraphs, within a 200 metre radius of a designated site;

(ii) in the case of the description set out in paragraphs 5, 7, 10, 11, 14 and 17, in their respective first sub-paragraphs, within a 500 metre radius of a designated site;

(iii) in the case of the description set out in paragraphs 21, 22 and 24, in their respective first sub-paragraphs, within one kilometre upstream of a designated site;

(iv) in the case of the description set out in paragraph 23, in its first sub-paragraph, within—

(aa) 5 kilometres upstream of a designated site notified for its freshwater habitats or species,

(bb) 1 kilometre upstream of a designated site that includes any part of the flood plain of the relevant main river but not the river itself, or

(cc) 1 kilometre upstream of any other designated site,

(b) in a water body in Wales that is part of a main river classified as of high morphological status by the NRBW in accordance with the relevant directions,

(c) where the activity is carried out in Wales, within 100 metres of a water body in Wales that is part of a main river classified as of high morphological status by the NRBW in accordance with the relevant directions, or

(**a**) S.I. 2010/490, amended by S.I. 2012/1927; there are other amending instruments but none is relevant.
(**b**) 1981 c. 69; the definition was inserted by paragraph 5(2) of Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37).

(d) in the case of the descriptions set out in paragraphs 3, 5, 7, 10 to 15, 18, 21 to 24 and 27, in their respective first sub-paragraphs, where the activity is carried out in England within 100 metres of a water body in Wales that is part of a main river classified as of high morphological status by the NRBW in accordance with the relevant directions.

(4) In sub-paragraph (3), "designated site" means—

(a) a European site (which has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2010),

(b) a Ramsar site (which has the same meaning as in section 37A of the Wildlife and Countryside Act 1981(**a**)),

(c) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981), or

(d) a nature reserve established by a local authority under section 21 of the National Parks and Access to the Countryside Act 1949(**b**).

(5) For the purposes of this Part—

"designated salmonid river" means—

(a) in England, a river included in the dataset sealed by the Agency on 22nd October 2015, entitled "Rivers in England identified as salmonid for flood risk activities under the Environmental Permitting Regulations", and published by the Agency(**c**);

(b) in Wales, a river included on the map published by the NRBW on 20th October 2015 entitled "Rivers in Wales identified as salmonid for flood risk activities under the Environmental Permitting Regulations"(**d**);

"designated sensitive water body" means a water body included in the dataset sealed by the Agency on 20th October 2015 entitled "Water bodies in England identified as sensitive for flood risk activities under the Environmental Permitting Regulations because sediment management may compromise delivery of the environmental objectives of the Water Framework Directive" and published by the Agency(**e**);

"the dredging and removal of silt and sand requirements" means the document published by the Agency on 1st February 2016 entitled "Dredging and the removal of silt and sand from main rivers as a flood risk activity under the Environmental Permitting Regulations"(**f**);

"protected species" means—

(a) a species of a kind mentioned in Article 4(2) of Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds(**g**) or listed in Annex I to that Directive or in Annex IV to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(**h**);

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(**a**) Section 37A was inserted by section 77 of the Countryside and Rights of Way Act 2000 and was amended by paragraph 86 of Part 1 of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c. 16), by paragraphs 5 and 7 of Schedule 2 to the Planning (Wales) Act 2015 (anaw. 4) and by S.I. 2013/755 (W. 90).

(**b**) 1949 c. 97; section 21 was amended by Schedule 30 to the Local Government Act 1972 (c. 70), by paragraphs 15(e) and 19 of Part 1 of Schedule 11 to the Natural environment and Rural Communities Act 2006, and by paragraph 1 of Part 1 of Schedule 2 to the Environment (Wales) Act 2016 (anaw. 3).

(**c**) A copy may be obtained from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY.

(**d**) The map is available at https://naturalresources.wales/media/5634/flood-epr-salmonids.pdf. A copy may be obtained from Natural Resources Wales, c/o Customer Care Centre, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

(**e**) A copy may be obtained from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY.

(**f**) A copy may be obtained from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY.

(**g**) OJ No L 20, 26.1.2010, p 7, as amended by Council Directive 2013/17/EU (OJ No. L 158, 10.6.2013, p.193).

(**h**) OJ No L 206, 22.7.1992, p 7, as last amended by Council Directive 2013/17/EU.

(b) a species in respect of which any adverse impact is in accordance with a licence issued under section 16 of the Wildlife and Countryside Act 1981(**a**);

"relevant directions" means the Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015(**b**).

(6) In this Part, "bank" has the meaning given in paragraph 2(2)(a) in Part 1 of Schedule 25 and paragraph 2(2)(b) to (d) of that Schedule applies to this Part.

**Electrical cable services**

**2.**—(1) The erection of an electrical cable service crossing over a main river.

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

(a) the service crossing is within 10° of perpendicular to the direction of flow of the main river,

(b) the vertical and horizontal clearances of the service crossing comply with the requirements set out in the table below,

(c) permanent hazard markers are erected on both banks of the main river,

(d) the bed and banks of the main river are not disturbed by the works, and

(e) all excavated material not re-used on the site of the works is removed from the floodplain.

| *Voltage (kV)* | *Vertical clearance[(1)](metres)* | *Horizontal clearance[(2)](metres)* |
|---|---|---|
| 275 | 15 | 15 |
| 400 | 15 | 15 |
| 132 | 12 | 15 |
| 66 | 12 | 15 |
| 33 | 9 | 10 |
| 11 | 9 | 10 |
| 6.6 | 9 | 10 |
| 4.15 | 6 | 9 |

[(1)] Vertical clearance above bank or flood bank crest level.

[(2)] Horizontal clearance of any tower or support landward from the top of the bank of the main river.

**Service crossings below the bed of a main river**

**3.**—(1) The erection of a service crossing below the bed of a main river by directional drilling not involving an open cut technique.

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

(a) the service crossing is within 10° of perpendicular to the direction of flow in the main river,

(b) a distance is maintained—

(i) of no less than 1.5 metres from the bed of the main river to the top of the service crossing, and

(**a**) Section 16 was amended by paragraph 11(4) of Schedule 9 to the 1990 Act, paragraph 6 of Schedule 12 to the Countryside and Rights of Way Act 2000, paragraph 72 of Part 1 of Schedule 11 to the Natural Environment and Rural Communities Act 2006, section 10 of the Marine and Coastal Access Act 2009 (c. 23) and by S.I. 1995/2825, 2007/1843 and 2013/755 (W. 90).

(**b**) These Directions were made on 9th September 2015 in exercise of powers in section 40(2) of the 1995 Act and are available at http://www.legislation.gov.uk/uksi/2015/1623/pdfs/uksiod_20151623_en.pdf. A copy may be obtained from the Flood Risk Management Team, the Department for Environment, Food and Rural Affairs, Area 3C, Nobel House, 17 Smith Square, London SW1P 3JR.

(ii) at the same height above sea level between points that are 5 metres beyond the top of each bank of the main river,

(c) the distance from the launch and reception pits to the landward side of each bank of the main river is—

(i) 8 or more metres in the case of a non-tidal main river;

(ii) 16 or more metres in the case of a tidal main river;

(d) the service crossing does not pass through any bank, culvert, remote defence or river control works on the main river or through any sea defence,

(e) the service crossing is 50 or more metres upstream of any impoundment or artificially raised channel,

(f) permanent hazard markers are erected on both banks of the main river,

(g) all excavated material not re-used on the site of the works is removed from the floodplain,

(h) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(i) the bed and banks of the main river are not disturbed by the works.

**Service crossings attached to the outside of existing structures over a main river**

**4.**—(1) Service crossings attached to the outside of existing structures over a main river.

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

(a) the service crossing does not project more than 1 metre horizontally from the structure,

(b) the service crossing follows the existing cross-sectional profile of the structure to the main river in both normal and flood flow,

(c) the service crossing does not pass through any bank, culvert, flood defence structure or river control works on the main river or through any sea defence,

(d) permanent hazard markers are erected on both banks of the main river, and

(e) a notification has not been sent by the regulator to the landowner that the structure has been identified for removal or modification in order to achieve the measures set out in the relevant River Basin Management Plan, within the meaning of Article 13 of the Water Framework Directive, that are designed to move a water body to good status pursuant to Article 4 of the Water Framework Directive.

**Footbridges**

**5.**—(1) The construction of footbridges.

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

(a) the length of the footbridge measured from the top of one bank of the main river to the top of the other bank is no more than 8 metres,

(b) the footbridge has no support in the watercourse, a deck width of no more than 1.5 metres and a kickerboard of no more than 100mm in height,

(c) the footbridge does not reduce the cross-sectional area of the channel in the main river,

(d) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006(**a**), or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016(**b**), that are not protected species,

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(**a**) 2006 c. 16.
(**b**) 2016 anaw. 3.

(e) no works take place within 100 metres of any non-agricultural building in the floodplain or another man-made structure on or in the main river,

(f) the bed of the main river is not affected by the construction,

(g) the length of bank disturbed by the construction extends to no more than 1 metre on either side of the footbridge,

(h) the footbridge is securely attached to foundations which are no closer than 1 metre to the edge of the bank,

(i) construction of the footbridge does not require reinforcement of the bed or banks,

(j) the approach ramp or steps for the footbridge do not extend more than 4 metres from the landward side of the bank,

(k) the lowest point of the underside of the bridge is at least 600mm higher than the top of both banks of the main river,

(l) all excavated material not re-used on the site of the works is removed from the floodplain,

(m) the height of the land at each end of the footbridge is not changed by the construction,

(n) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(o) any parapet of the footbridge is of open construction comprising—

(i) post and rail,

(ii) post and wire mesh fencing of at least 100mm spacing, or

(iii) post and wire strands.

**Temporary scaffolding in England**

**6.**—(1) The erection and use of temporary scaffolding in or over a main river in England.

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

(a) the scaffolding will be in place for no longer than 4 weeks,

(b) the scaffolding is not in place between 15th March and 15th June inclusive in any year,

(c) on a main river that is a designated salmonid river, the scaffolding is not in place between 1st October and 14th March inclusive in any year,

(d) the scaffolding does not occupy more than 10 metres of a river bank at any one time,

(e) the scaffolding projects into or over the main river no more than 1.2 metres or no more than 10% of the width of the main river, whichever is less,

(f) the scaffolding is located no less than 100 metres from any other scaffolding the erection and use of which is reliant on this exemption,

(g) except where it is unsafe to do so, debris lodged against the scaffolding is removed within 24 hours, and

(h) any transoms and walking decks are set no lower than 600 mm above water level.

**Temporary dewatering in England**

**7.**—(1) The temporary dewatering of a work area in England.

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

(a) the duration of the dewatering is no longer than 4 weeks,

(b) the dewatering is not in place between 15th March and 15th June inclusive in any year,

(c) on a main river that is a designated salmonid river, the dewatering is not in place between 1st October and 14th March inclusive in any year,

(d) the dewatering does not affect more than 10 metres of the bank of a main river at any one time,

(e) the dewatering is not within 8 metres of a flood defence structure or river control works,

(f) the depth of water adjacent to the dewatered area does not exceed 1.2 metres,

(g) the dewatering does not occur in, or within 500 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(h) all reasonable steps are taken to protect aquatic plants and aquatic animals found in the dewatered area,

(i) the dewatering structure projects into or over the main river no more than 1.2 metres or no more than 10% of the width of the main river, whichever is less,

(j) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(k) all excavated material not re-used on the site of the works is removed from the floodplain,

(l) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(m) any pumps used in the dewatering process are fitted with a 20mm mesh screen.

**Maintenance of raised river or sea defences**

**8.**—(1) The maintenance of raised river or sea defences.

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

(a) the maintenance works use materials of the same kind as those present in the raised defences and do not alter the shape of those defences or the overall height of the protection afforded by those defences,

(b) the raised defences are carrying out the functions for which they were originally designed, and

(c) the works do not disturb the bed or, up to normal ground level, the banks of the main river.

**Maintenance of structures within the channel of a main river**

**9.**—(1) The maintenance of structures within the channel of a main river other than raised river or sea defences.

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

(a) the maintenance works do not alter any dimension of the structure,

(b) the structure is carrying out the functions for which it was originally designed,

(c) the maintenance works use materials of the same kind as those present in the structure,

(d) the maintenance works do not occur between 15th March and 15th June inclusive in any year,

(e) on a main river that is a designated salmonid river, the maintenance works do not occur between 1st October and 14th March inclusive in any year, and

(f) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species.

**Drinking bays**

**10.**—(1) The construction of a drinking bay on the bank of a main river.

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

(a) the bay is not located within 100 metres of any other man-made structure on or in the main river,

(b) the bay is surrounded by a post and rail fence which must project into or over the main river no more than 1.2 metres or 10% of the width of the main river, whichever is less,

(c) the base of the bay has a surface made of concrete, stone or inert hard core,

(d) all excavated material not re-used on the site of the works is removed from the floodplain,

(e) the works do not adversely affect any culvert, remote defence, river control works, sea defence or any raised embankment or wall forming part of the bank of the main river,

(f) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(g) the works do not occur in, or within 500 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(h) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(i) the remainder of the bank is fenced so as to prevent damage to the bank.

**Access platforms**

**11.**—(1) The construction of access platforms on the bank of a main river or that project into or over a main river.

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

(a) the platform is not located within 50 metres of any other man-made structure,

(b) the platform projects no more than 1.2m into or over the main river and occupies no more than 2m of bank length,

(c) the works do not adversely affect any culvert, remote defence, river control works, sea defence or any raised embankment or wall forming part of the bank of the main river,

(d) that part of the platform which projects over the channel is constructed as a flat deck, with no solid infill beneath the platform, supported on piers or piles of no more than 300mm width,

(e) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(f) the works do not occur in, or within 500 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(g) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(h) any steps cut into the bank are supported by timber risers on the vertical part of the step.

**Outfalls**

**12.**—(1) The construction of small outfall pipes and headwalls to main rivers.

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

(a) the headwall is not located within 50 metres of another man-made structure on or in the main river,

(b) in the case of a headwall to a non-tidal main river, the outfall pipe is aligned to an angle of between 30° and 60° to the direction of flow in the river,

(c) the diameter of the outfall pipe is less than 300mm,

(d) the height of the headwall is no more than 1.5 metres or no more than 75% of the height of the bank, whichever is less,

(e) the total length of bank affected during construction of the headwall is no more than 1.5 metres,

(f) the headwall, wing walls and apron do not project beyond the line of the bank prior to the works being carried out,

(g) the headwall is not within 8 metres of a flood defence structure or river control works,

(h) the outfall pipe does not pass through or under any culvert, remote defence, river control works or sea defence, or any raised embankment or wall forming part of the bank of the main river,

(i) all excavated material not re-used on the site of the works is removed from the floodplain,

(j) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(k) the works do not occur in, or within 200 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(l) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(m) any pipe that discharges through the headwall does not pass within 8 metres of a flood defence structure.

**Repair and protection of banks using natural materials**

**13.**—(1) The repair and protection of main river banks using natural materials.

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

(a) the length of bank affected by the works is no more than 10 metres,

(b) the works do not include the use of steel sheet piling, concrete, cement or concrete bagwork, brickwork, gabions or non-biodegradable materials,

(c) the works do not take place within 50 metres of a bank that has been reinforced,

(d) the works do not encroach into the channel of the main river beyond the line of the bank prior to the works being carried out,

(e) when the works are finished, the height of the bank does not exceed the lower of—

(i) the height of the bank on either side of the works, and

(ii) the height of the bank prior to the works being carried out,

(f) the works are securely fastened to the bank at each end so as to prevent erosion behind the works,

(g) the works do not involve the use of vehicles or wheeled or tracked machinery on the bed or bank of the main river,

(h) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006(**a**), or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016(**b**), that are not protected species,

(i) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(j) the works are not to a bank consisting of an earth cliff over 1 metre in height.

**Repair of bank slips and erosion**

**14.**—(1) Repair of bank slips and erosion.

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

(a) the works do not involve removal of material from the bed of the main river other than bank slippage,

(b) the works do not affect more than 10 metres of the bank at any one time,

(c) the works do not encroach into the channel of the main river beyond the line of the bank prior to the works being carried out,

(d) when the works are finished, the height of the bank does not exceed the lower of—

(i) the height of the bank on either side of the works, and

(ii) the height of the bank prior to the slip or erosion,

(e) the works are securely fastened to the bank at each end so as to prevent erosion behind the works,

(f) any repair of a bank slippage is made using as materials only material that has subsided from that bank,

(g) any repair of erosion uses materials of the same kind as those present on the relevant site,

(h) the works do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(i) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(j) the works do not involve the use of a vehicle or of wheeled or tracked machinery on the bed or banks of the main river.

**Channel habitat structures made of natural materials**

**15.**—(1) The installation of channel habitat structures made of natural materials (excluding weirs and berms).

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

(a) the structure occupies no more than half the width of the cross-sectional area of the channel in the main river and no more than 20 metres of the length of the main river,

(**a**) 2006 c. 16.
(**b**) 2016 anaw. 3.

(b) no part of the structure is higher than 0.3 metres above the level of the river bed or 25% of the height of the bank (excluding any wall or embankment forming part of the bank), whichever is greater,

(c) the structure is made from naturally occurring woody material and is securely fastened to the bed of the main river, the bank or both,

(d) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(e) no works take place within 100 metres of—

(i) a non-agricultural building in the floodplain,

(ii) another natural channel habitat structure,

(iii) stones or logs placed in the main river for habitat enhancement, or

(iv) a man-made structure on or in the main river.

**Rafts for surveys**

**16.**—(1) The installation of rafts for surveys.

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

(a) the raft has dimensions of no greater than 1.5 metres x 1 metre x 0.15 metre,

(b) any equipment box used on the raft has a height of no more than 0.75 metre,

(c) the raft is permanently and securely attached to the bank,

(d) the raft is installed no less than 100 metres from any other raft,

(e) when the raft is installed, there are no more than four other rafts within a distance of one kilometre,

(f) the raft is installed for no more than 12 months and removed immediately if, within that period, it is no longer required, and

(g) the raft is not installed within 100 metres of any non-agricultural building in the floodplain or another man-made structure on or in the main river.

**Gravel-cleaning for fish-spawning beds**

**17.**—(1) Gravel-cleaning for fish-spawning beds.

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

(a) the works are only carried out in September or October in any year,

(b) the works are to no more than $20m^2$ of gravel per location, with a gap of at least 30 metres between locations,

(c) the works do not adversely affect the banks or established bed of the main river,

(d) the works are carried out using only hand tools or machinery carried and operated by one person, and

(e) the works do not occur in, or within 500 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016.

**Placement of stones or logs in a main river in England for habitat enhancement**

**18.**—(1) Placement of stones or logs in the channel of a main river in England for habitat enhancement.

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

(a) any stones placed in the channel are of a type that occur naturally in the main river and do not exceed 400mm in any dimension,

(b) any log placed in the channel is less than 2 metres in length, less than 400mm in diameter and oriented at an angle of within 45° to the flow of water,

(c) any log placed in the channel—

(i) is from a type of tree that occurs naturally in the vicinity of the main river, and

(ii) is securely fixed to the bed or bank of the main river,

(d) the stones or logs are placed in the channel over no more than 20 metres of the length, and 20% of the width, of the main river,

(e) the placement of stones or logs does not occur in, or within 200 metres upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(f) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(g) no stones or logs are placed within 100 metres of—

(i) a non-agricultural building in the floodplain,

(ii) a natural channel habitat structure,

(iii) an existing emplacement of stones or logs placed in the main river for habitat enhancement, or

(iv) a man-made structure on or in the main river.

**Eel pass devices**

**19.**—(1) Construction of eel pass devices on existing structures.

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

(a) the existing structure is not located on a tidal river,

(b) the device is permanently and securely attached to the existing structure,

(c) the width of the device is no more than 5% of the width of the main river, and

(d) the device does not extend upstream or downstream from the existing structure more than the lesser of—

(i) 10 metres, or

(ii) the width of the channel measured between the top of each bank of the main river.

**Fish passage notches**

**20.**—(1) Construction of fish passage notches on an existing impoundment.

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

(a) the construction does not affect the structural integrity of the existing impoundment,

(b) construction of the notches does not change the water level in the main river by more than 20cm upstream or downstream from the existing structure,

(c) the existing impoundment is located on a main river with a width of no more than 5 metres measured between the top of each bank,

(d) the construction does not adversely affect the banks or established bed of the main river, and

(e) the notch is no more than 0.6 metre in width.

**Removal of silt, sand and other material in England**

**21.**—(1) The removal of silt and sand from within bridge arches in England and any material from within culverts in England.

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

(a) the works do not affect the structural integrity of the bridge arch or culvert,

(b) in the case of works within bridge arches, the removal of silt and sand is limited to the removal of accumulated silt and sand on the established bed of the main river,

(c) the works do not occur in, or within 1 kilometre upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(d) the works and the subsequent deposition of the removed material do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(e) the works do not occur between 15th March and 15th June inclusive in any year,

(f) on a main river that is a designated salmonid river, the works do not occur between 1st October and 14th March inclusive in any year,

(g) the works do not expose the structural foundations or footings of the bridge or culvert,

(h) the works and any equipment used to remove the sand and silt comply with the dredging and removal of silt and sand requirements,

(i) the works do not involve the use of machinery on the bed or banks of the main river more than 20 metres from the bridge or culvert,

(j) the works do not involve the use of a vehicle on the bed or banks of the main river,

(k) the works do not damage the culvert or the banks or bed of the main river, and

(l) the works are not carried out in, or within 1 kilometre upstream or 500 metres downstream of, a water body that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions.

**Removal of silt and sand adjacent to in-river structures in England**

**22.**—(1) The removal of silt and sand adjacent to in-river structures in England.

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

(a) the works take place no more than 10 metres upstream or downstream from the edge of the structure,

(b) the removal of silt and sand does not affect the structural integrity of the structure,

(c) the works do not damage the banks or bed of the main river,

(d) the works are limited to the removal of accumulated silt and sand on the established bed of the main river,

(e) the removal of silt and sand does not expose the structural foundations or footings of the structure,

(f) silt and sand is not removed to below the level of the base of the inside of an adjacent culvert,

(g) the works do not remove vegetation from the bed or banks of the main river, other than vegetation growing in or through the silt and sand,

(h) the works do not involve the use of a vehicle or machinery on the bed or banks of the main river,

(i) the removal of silt and sand does not occur in, or within 1 kilometre upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006(**a**) or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016(**b**),

(j) the removal of silt and sand and its subsequent deposition do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(k) the removal of silt and sand does not occur between 15th March and 15th June inclusive in any year,

(l) on a main river that is a designated salmonid river, the removal of silt and sand does not occur between 1st October and 14th March inclusive in any year,

(m) the works and any equipment used to remove the sand and silt comply with the dredging and removal of silt and sand requirements,

(n) the works are not carried out in, or within one kilometre upstream or 500 metres downstream of, a water body that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(o) the removal of silt and sand does not occur in a designated sensitive water body.

**Dredging of man-made ditches, land drains, agricultural drains and previously straightened watercourses in England**

**23.**—(1) Dredging of no more than 1.5 kilometres of man-made ditches, land drains, agricultural drains and previously straightened watercourses classified as main rivers in England.

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

(a) the works do not occur in any location where dredging has been carried out within the previous 3 years,

(b) the works do not occur in any location on a watercourse where dredging has taken place within 1.5 kilometres upstream or downstream of that location in the previous 12 months,

(c) the works are completed within 3 years of registration of the exemption,

(d) the works do not damage the bed or banks of the main river,

(e) the dredging does not include the removal of gravel,

(f) the dredging is limited to the removal of accumulated silt and sand on the established bed of the main river,

(g) the works do not remove vegetation from the bed or banks of the main river, other than vegetation growing in or through the silt and sand,

(h) the works do not involve the use of a vehicle or machinery on the bed or banks of the main river,

(i) the works do not occur in, or within one kilometre upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(j) the dredging and subsequent deposition of dredged material do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

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(**a**) 2006 c. 16.
(**b**) 2016 anaw. 3.

(k) the works do not occur between 15th March and 15th June inclusive in any year,

(l) on a main river that is a designated salmonid river, the works do not occur between 1st October and 14th March inclusive in any year,

(m) the works and any equipment used comply with the dredging and removal of silt and sand requirements,

(n) the works are not carried out in, or within 1 kilometre upstream or 500 metres downstream of, a water body that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions,

(o) the works do not occur in a designated sensitive water body,

(p) on a non-tidal main river, the works do not occur within 8 metres of a flood defence structure or river control works, and

(q) on a tidal main river, the works do not occur within 16 metres of a flood defence structure or sea defence.

**Dredging of any main river in England**

**24.**—(1) Dredging of no more than 20 metres of any main river in England.

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

(a) no dredging has been carried out in the previous 12 months in the same main river and property,

(b) the works are completed within 12 months of registration of the exemption,

(c) the works do not damage the bed or banks of the main river,

(d) the dredging does not include the removal of gravel,

(e) the works do not remove vegetation from the bed or banks of the main river, other than vegetation growing in or through the silt and sand,

(f) the dredging is limited to the removal of accumulated silt and sand on the established bed of the main river,

(g) the works do not involve the use of a vehicle or machinery on the bed or banks of the main river,

(h) the works do not occur in, or within 1 kilometre upstream of, a type of habitat included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016,

(i) the dredging and subsequent deposition of dredged material do not have a significant adverse effect on species included in a list published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006, or by Welsh Ministers under section 7 of the Environment (Wales) Act 2016, that are not protected species,

(j) the works do not occur between 15th March and 15th June inclusive in any year,

(k) on a main river that is a designated salmonid river, the works do not occur between 1st October and 14th March inclusive in any year,

(l) the works and any equipment used comply with the dredging and removal of silt and sand requirements,

(m) the works are not carried out in, or within 1 kilometre upstream or 500 metres downstream of, a water body that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(n) the dredging does not occur in a designated sensitive water body.

**Excavation of scrapes and shallow wetland features**

**25.**—(1) The excavation of scrapes and shallow wetland features in a floodplain.

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

(a) the area of the excavation is no more than 0.1 hectare and takes place at least 100 metres from any other excavation in the floodplain,

(b) the excavation is no more than 500mm deep at any point,

(c) where spoil from the excavation is spread on the floodplain, the spoil is spread to a depth of no more than 100mm, and

(d) the excavation is at least 8 metres from any structure forming part of a flood defence and from the landward side of each bank of the main river.

**Raised flood defences in England**

**26.**—(1) The construction of raised flood defences around one to six adjoining properties in England.

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

(a) the works are not within 8 metres of a main river,

(b) the dimensions of the flood defences are no more than 1 metre in height and 6 metres in width,

(c) the defences are located at least 20 metres from any building not owned by the owners of the properties,

(d) the total area protected by the defences is no more than $150m^2$ for each property,

(e) the defences are to protect existing buildings, and

(f) the works are within the existing boundary of the properties.

**Bankside wildlife refuge structures**

**27.**—(1) Construction of bankside wildlife refuge structures.

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

(a) the length of bank excavated during construction of the structure is no more than 1.5 metres,

(b) the height of the structure is no more than 1.5 metres or no more than 75% of the height of the bank, whichever is less,

(c) the structure is not located within 50 metres of another man-made structure on or in the main river,

(d) the structure is not located within 8 metres of a flood defence structure or river control works,

(e) the works are not carried out in, or within 100 metres of, a water body in England that is part of a main river classified as of high morphological status by the Agency in accordance with the relevant directions, and

(f) the structure does not project beyond the line of the bank prior to the works being carried out.

**Improvement works for tracks and paths**

**28.**—(1) Improvement works for tracks and paths.

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

(a) the works are to an existing track or path,

(b) the works do not alter the route or width of the track or path,

(c) the works do not disturb the bed or banks of any main river,

(d) the works do not increase the level of the path by more than 100mm, and

(e) when the works are completed, all materials and debris are removed from the site.

# PART 5

## Other waste operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions

### General and interpretation

**1.**—(1) The descriptions in this Part are set out in the first sub-paragraph of each paragraph.

(2) The conditions for each description are set out in the second sub-paragraph of each paragraph.

(3) In this Part—

"collection" has the same meaning as in Article 3(10) of the Waste Framework Directive;

"collection point" means a place which is used for the collection of waste by an establishment or undertaking where the establishment or undertaking does not—

(a) receive payment for collecting the waste, or

(b) collect waste as its main business activity;

"place of production" has the meaning given in paragraph 1(1) of Part 1 of this Schedule.

(4) For the purposes of this Part, a container, lagoon or other place is secure in relation to waste kept in it if—

(a) all reasonable precautions are taken to ensure that the waste cannot escape from it, and

(b) members of the public are unable to gain access to the waste.

### Temporary storage at the place of production

**2.**—(1) The temporary storage of any waste at the place of production, pending its collection.

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

(a) no waste is stored for longer than 12 months, and

(b) the waste is stored in a secure place.

### Temporary storage of waste at a place controlled by the producer

**3.**—(1) The temporary storage of any waste, pending its collection, at a place controlled by the producer of the waste.

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

(a) the producer has control over the waste and the storage place,

(b) the waste does not contain or consist of—

(i) unbonded asbestos, or

(ii) any substance with a flash point of less than 21 degrees Celsius,

(c) the operation is not carried on in the course of providing a waste management service to another person,

(d) the waste is stored in a secure place,

(e) where more than one type of waste is stored, the types are not mixed,

(f) no waste is stored for longer than 3 months,

(g) in relation to non-liquid waste, the total quantity stored at any one time does not exceed 50 cubic metres, and

(h) in relation to liquid waste—

(i) the total quantity stored at any one time does not exceed 1,000 litres, and

(ii) the waste is stored in a container with secondary containment.

**Temporary storage at a collection point**

**4.**—(1) The temporary storage of waste at a collection point for the purposes of recovering or disposing of the waste elsewhere.

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

(a) the waste does not contain or consist of—

(i) asbestos;

(ii) any substance with a flash point of less than 21 degrees Celsius,

(b) where more than one type of waste is stored, the types are not mixed,

(c) in relation to WEEE, the total quantity of waste stored at any one time does not exceed 30 cubic metres,

(d) in relation to non-hazardous waste that—

(i) is not WEEE, and

(ii) is to be recovered elsewhere,

the total quantity of waste stored any one time does not exceed 50 cubic metres, and

(e) in relation to waste not covered by paragraph (d) or (e), the total quantity of waste stored at any one time does not exceed 5 cubic metres.

# SCHEDULE 4

Regulation 11

## Application to the Crown

**Crown application**

**1.** Subject to paragraphs 2 to 5, these Regulations bind the Crown.

**Contravention of these Regulations by the Crown**

**2.**—(1) If the Crown contravenes a provision of these Regulations—

(a) it is not criminally liable under regulation 38, and

(b) no proceedings may be taken against it under regulation 42.

(2) But—

(a) on the application of a regulator, the High Court may declare a contravention of these Regulations by the Crown to be unlawful, and

(b) these Regulations apply to persons in the public service of the Crown as they apply to other persons.

**Entry to Crown premises**

**3.**—(1) If the appropriate authority considers that in the interests of national security particular powers of entry must not be used in relation to particular Crown premises it may certify that those powers must not be used in relation to those premises.

(2) In this paragraph—

"Crown premises" means premises held or used by or on behalf of the Crown;

"power of entry" means a power of entry exercisable under section 108 of the 1995 Act(**a**), in relation to a function under these Regulations.

**Service on certain Crown operators**

**4.**—(1) This paragraph applies in relation to a regulated facility controlled or operated by a person acting on behalf of—

(a) the Royal Household,

(b) the Duchy of Lancaster, or

(c) the Duke of Cornwall or other possessor of the Duchy of Cornwall.

(2) When serving or giving notices or notifications, or instituting proceedings, the following person must be treated as the operator—

(a) in relation to sub-paragraph (1)(a), the Keeper of the Privy Purse;

(b) in relation to sub-paragraph (1)(b), the person appointed by the Chancellor of the Duchy of Lancaster;

(c) in relation to sub-paragraph (1)(c), the person appointed by the Duke of Cornwall or other possessor of the Duchy of Cornwall.

**Application of this Schedule to certain radioactive substances activities**

**5.**—(1) These Regulations do not bind the Crown in relation to a radioactive substances activity carried on at premises—

(a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or

(b) occupied by or for the purposes of visiting forces.

(2) In this paragraph, "visiting force" has the meaning given in section 12(1) of the Visiting Forces Act 1952(**b**).

# SCHEDULE 5

Regulations 13(3) and 15(3)

## Environmental permits

## PART 1

### Grant, variation, transfer and surrender of environmental permits

**Interpretation**

**1.** In this Part—

"applicant" means—

(a) in the case of an application for the transfer of an environmental permit in whole or in part—

(i) the operator and the proposed transferee, or

(**a**) Section 108 was amended by section 55(6) to (9) of the Anti-social Behaviour Act 2003 (c. 38), section 53 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), and paragraph 3(1) to (4) of Part 1 of Schedule 2 to the Protection of Freedoms Act 2012 (c. 9), and by S.I. 2000/1973, 2010/675, 2013/755 (W. 90), 2015/374 and 2016/475. It is prospectively amended by Schedule 3 to the Pollution Prevention and Control Act 1999 (c. 24) from a date to be appointed.

(**b**) 1952 c. 67; section 12 was amended by paragraph 14 of Schedule 15 to the Criminal Justice Act 1988 (c. 33).

(ii) the proposed transferee;

(b) in every other case, the operator;

"application" means an application—

(a) for the grant of an environmental permit under regulation 13(1),

(b) by an operator for the variation of an environmental permit under regulation 20(1),

(c) for the transfer, in whole or in part, of an environmental permit under regulation 21(1), or

(d) for the surrender, in whole or in part, of an environmental permit under regulation 25(2);

"public consultee" means a person whom the regulator considers is affected by, is likely to be affected by, or has an interest in, an application.

**Making an application**

**2.**—(1) An application must—

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

(b) include—

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

(ii) any additional information required by the regulator.

(2) An application under regulation 13(1) for the grant of an environmental permit for a flood risk activity referred to in paragraph 3(1)(a) to (c) of Part 1 of Schedule 25 must be accompanied by—

(a) a fee of £50 for each flood risk activity to which the application relates, unless the regulator has made a charging scheme under section 41 of the 1995 Act(**a**), or

(b) where the regulator has made such a charging scheme, the fee prescribed under that scheme.

(3) Any other application must be accompanied by any fee prescribed in a charging scheme made by the regulator under section 41 of the 1995 Act or by the appropriate authority under regulation 66.

**Withdrawing an application**

**3.**—(1) A duly-made application may be withdrawn by the applicant before it is determined.

(2) If an application is withdrawn the applicant is not entitled to the return of any fee which accompanied it.

**Further information in respect of a duly-made application**

**4.**—(1) If the regulator considers that it requires further information to determine a duly-made application, it may serve a notice on the applicant specifying the further information and the period within which it must be provided.

(2) If the applicant fails to provide the further information in accordance with the notice, the regulator may serve a further notice on the applicant stating that the application is deemed to be withdrawn, upon which the application is deemed to be withdrawn.

(3) If an application is deemed to be withdrawn, the applicant is not entitled to the return of any fee which accompanied it.

(**a**) Section 41 was amended by paragraph 39 of Schedule 4 to the Flood and Water Management Act 2010 (c. 29), and by S.I. 2005/894, 1806 (W. 138), 2006/937, 2007/1711, 3106, 2008/3087, 2009/890, 3381, 2011/988, 1043, 2911, 2012/1659, 2788, 2013/755 (W. 90), 1821 and 2014/861.

**Public participation: scope**

**5.**—(1) Paragraph 6 applies to every application for the grant of an environmental permit except an application in relation to—

(a) mobile plant,

(b) a radioactive substances activity described in paragraph 11(5) of Part 2 of Schedule 23,

(c) a standard facility,

(d) a mining waste operation not involving a mining waste facility to which Article 7 of the Mining Waste Directive applies, or

(e) a stand-alone flood risk activity—

(i) which is not likely to have a significant adverse effect on the environment, or

(ii) in respect of which public consultation has been carried out under another statutory requirement where that consultation addresses the potential environmental impact of the flood risk activity.

(2) Paragraph 6 applies to every application for the variation of an environmental permit if—

(a) it would entail a substantial change, or

(b) the regulator determines that the paragraph should apply.

(3) Paragraph 8 applies to every regulator-initiated variation if—

(a) it would entail a substantial change, or

(b) the regulator determines that the paragraph should apply.

(4) But paragraphs 6 and 8 do not apply to the extent that the application or regulator-initiated variation relates to—

(a) the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts,

(b) dry cleaning,

(c) the unloading of petrol into stationary storage tanks at a service station if it is an activity within paragraph (c) of Part B of Section 1.2 of Part 2 of Schedule 1,

(d) any motor vehicle refuelling activity within paragraph (d), (e) or (f) of Part B of Section 1.2 of Part 2 of Schedule 1, or

(e) a stand-alone flood risk activity—

(i) which is not likely to have a significant adverse effect on the environment, or

(ii) in respect of which public consultation has been carried out under another statutory requirement where that consultation addresses the potential environmental impact of the flood risk activity.

(5) In this paragraph—

"change in operation" means a change in the nature or functioning, or an extension, of an installation, which may have consequences for the environment;

"dry cleaning" means an industrial or commercial activity using volatile organic compounds to clean garments, furnishing and similar consumer goods excluding the manual removal of stains and spots in the textile or clothing industry;

"substantial change" means a change in operation of an installation which in the regulator's opinion may have significant negative effects on human beings or the environment and includes—

(a) in relation to a Part A installation, a change in operation which in itself meets the thresholds, if any, set out in Part 2 of Schedule 1, and

(b) in relation to a waste incineration plant or waste co-incineration plant for non-hazardous waste, a change in operation which would involve the incineration or co-incineration of hazardous waste.

(6) When assessing whether a change in operation of a Part B installation has significant effects on the environment, the regulator must consider only its emissions to air.

**Public participation in relation to certain applications**

**6.**—(1) Subject to sub-paragraphs (2) and (3), if this paragraph applies the regulator must, within the consultation communication period—

(a) take the steps it considers appropriate to inform the public consultees of the application and the place and times its public register can be inspected free of charge,

(b) invite the public consultees to make representations on the application, and

(c) specify to the public consultees the address to which and the period within which representations are to be made.

(2) The regulator must not inform the public consultees of information which is to be excluded from a public register in the interests of national security unless the appropriate authority directs that it must do so.

(3) The regulator must not inform the public consultees of information which is to be excluded from a public register because it is confidential information, unless the public consultee is—

(a) a public authority and the information is necessary for the exercise of its functions, or

(b) a sewerage undertaker and the information relates to the release of any substance into a sewer vested in that undertaker.

**Calculation of the consultation communication period**

**7.**—(1) In paragraph 6, "the consultation communication period" means a period of 30 working days starting on the day the regulator receives a duly-made application.

(2) But the period starts on—

(a) the determination date, if a determination in relation to national security or confidentiality is made under regulation 47 or 50, or

(b) the day an information subject gives notice under regulation 49(2)(a) consenting to the regulator including information on the public register.

(3) In sub-paragraph (2), "determination date" means—

(a) the date of a determination under regulation 47(3) or (7),

(b) the date of a determination under regulation 50 that information must be excluded from the public register, or

(c) if the regulator determines under regulation 50 that information must be included on the public register—

(i) if an appeal is brought, the date of determination or withdrawal of that appeal, or

(ii) if no appeal is brought, the date on which the period for bringing an appeal expires.

**Public participation in relation to regulator-initiated variations**

**8.**—(1) If this paragraph applies, the regulator must notify the operator—

(a) that the public participation procedures in sub-paragraph (2) apply,

(b) of the variation it proposes to the environmental permit, and

(c) of any fee prescribed in respect of this paragraph in a charging scheme made by the regulator under section 41 of the 1995 Act or by the appropriate authority under regulation 66.

(2) The regulator must—

(a) take the steps it considers appropriate to inform the public consultees of the proposed variation,

(b) invite the operator and the public consultees to make representations on the proposed variation, and

(c) specify to the operator and the public consultees the address to which and the period within which representations are to be made.

**Consultation: conditions mentioned in regulation 15(1)**

**9.**—(1) This paragraph applies if the regulator proposes to include a condition mentioned in regulation 15(1) in an environmental permit, other than a condition to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a condition that does not specifically identify the land in relation to which the operator is required to carry out works or, as the case may be, do other things.

(3) If this paragraph applies, the regulator must serve a notice which complies with sub-paragraph (4) on every person appearing to it to fall within sub-paragraph (5).

(4) The notice must specify—

(a) the proposed condition,

(b) the works or other things which the condition would require, and

(c) the address to which and the period within which representations on the proposed condition are to be made (which period must not expire less than 20 working days after the day the notice is served).

(5) A person falls within this sub-paragraph if—

(a) the person is the owner, lessee or occupier of land, and

(b) regulation 15(2) would require the person to grant the rights mentioned there if the proposed condition were included in the environmental permit.

(6) In sub-paragraph (5)(a), "owner" means the person who—

(a) is receiving the rack-rent of the land, whether on the person's own account or as agent or trustee for another person, or

(b) would receive the rack-rent if the land were let at a rack-rent,

but does not include a mortgagee not in possession.

**Consultation with other member States**

**10.**—(1) This paragraph applies if—

(a) an appropriate authority is aware that the grant of a relevant application or regulator-initiated variation is likely to have significant negative effects on the environment of another member State, or

(b) another member State requests information about a relevant application or about a proposal for a regulator-initiated variation.

(2) As soon as is reasonably practicable the appropriate authority must—

(a) send the particulars of the relevant application or regulator-initiated variation to that member State to serve as the basis for bilateral consultations of the type referred to in the relevant Article,

(b) inform that member State of the relevant information, and

(c) notify the operator and the regulator that it has complied with paragraphs (b) and (c).

(3) If a regulator receives notification under sub-paragraph (2)(c), it must not determine the application or make the regulator-initiated variation until the appropriate authority has—

(a) notified it that the bilateral consultations have been completed, and

(b) sent it any representations made by the member State.

(4) In this paragraph—

"member State" includes Iceland, Liechtenstein and Norway but only to the extent that there is a relevant application or regulator-initiated variation which relates to the carrying on at an installation of an activity listed in Annex I to the Industrial Emissions Directive;

"relevant application" means an application for the grant or variation of an environmental permit in relation to an installation described in sub-paragraph (5) or a Category A mining waste facility;

"relevant Article" means—

(a) in the case of an application in relation to an installation described in sub-paragraph (5), Article 26 of the Industrial Emissions Directive;

(b) in the case of an application in relation to a Category A mining waste facility, Article 16 of the Mining Waste Directive;

"relevant information" means—

(a) where the relevant application or regulator-initiated variation relates to an installation described in sub-paragraph (5), a matter in paragraph 1 of Annex IV to the Industrial Emissions Directive;

(b) where it relates to a Category A mining waste facility, the information required under Article 16 of the Mining Waste Directive.

(5) The description in this sub-paragraph is an installation where an activity listed in Annex 1 to the Industrial Emissions Directive is carried on.

**Duty to consider representations**

**11.** Before it determines an application or makes a regulator-initiated variation, the regulator must consider any representation—

(a) made pursuant to paragraph 6(1)(b), 8(2)(b) or 9(4)(c), or

(b) sent to it under paragraph 10(3)(b).

**Duty to determine an application**

**12.**—(1) The regulator must grant or refuse a duly-made application.

(2) Except in the case of an application for the surrender of an environmental permit in whole, the regulator may grant an application subject to such conditions as it sees fit.

(3) But—

(a) variations of an environmental permit in relation to the grant of an application for variation, transfer in whole or in part, or partial surrender must be in consequence of the variation, transfer or partial surrender, as the case may be and

(b) if granting an application for partial transfer, the regulator must grant a new environmental permit to the transferee subject to the same conditions as the original permit, varied in consequence of the partial transfer.

**Identity and competence of the operator**

**13.**—(1) Subject to sub-paragraph (3), the regulator must refuse an application for the grant of an environmental permit or for the transfer in whole or in part of an environmental permit if it considers that, if the permit is granted or transferred, the requirements in sub-paragraph (2) will not be satisfied.

(2) The requirements are that the applicant for the grant of an environmental permit, or the proposed transferee, on the transfer of an environmental permit (in whole or in part), must—

(a) be the operator of the regulated facility, and

(b) operate the regulated facility in accordance with the environmental permit.

(3) The requirement in sub-paragraph (2)(b) does not apply to an applicant for the grant of an environmental permit authorising the carrying on of only a stand-alone water discharge activity, stand-alone groundwater activity or stand-alone flood risk activity.

**Surrender applications**

**14.**—(1) The regulator must accept an application for the surrender of an environmental permit in whole or in part under regulation 25(2) if it is satisfied that the necessary measures have been taken—

(a) to avoid a pollution risk resulting from the operation of the regulated facility and, in the case of a permit authorising the carrying on of a flood risk activity (in whole or in part), to avoid any of the risks specified in sub-paragraph (3), and

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

(2) Sub-paragraph (1) does not apply to an application for the surrender of any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a radioactive substances activity at a nuclear site.

(3) The risks specified in this sub-paragraph are—

(a) risk of flooding;

(b) risk of harm to the environment;

(c) risk of detrimental impact on drainage.

**Time limits for determination**

**15.**—(1) If—

(a) the regulator has not determined an application within the relevant period, and

(b) the applicant serves a notice on the regulator which refers to this paragraph,

the application is deemed to have been refused on the day on which the notice is served.

(2) Sub-paragraph (1) does not apply—

(a) to an application for the grant of an environmental permit that, if granted, would authorise the carrying on of a radioactive substances activity at a nuclear site, or

(b) to an application for the transfer of an environmental permit where the permit authorises the carrying on of a radioactive substances activity at a nuclear site.

(3) In sub-paragraph (1) "the relevant period" means a period, calculated in accordance with paragraph 16, of—

(a) in the case of an application for the transfer of an environmental permit in whole or in part, 2 months,

(b) in the case of an application for the grant or variation, in whole or in part, of an environmental permit relating to a stand-alone flood risk activity only, 2 months,

(c) in a case where paragraph 6 applies, 4 months, or

(d) in any other case, 3 months,

or in any case, a longer period than the period in paragraphs (a) to (d), if it is agreed by the regulator and the applicant.

**Calculation of the relevant period**

**16.**—(1) This paragraph provides for the calculation of a period referred to in paragraph 15(3).

(2) The period starts—

(a) in the case of an application for the grant or variation of an environmental permit in relation to a Category A mining waste facility—

(i) on the day the regulator is notified by the fire and rescue authority of the matters referred to in paragraph 14(1) of Schedule 20, and for these purposes "fire and rescue authority" has the meaning given in paragraph 2 of that Schedule, or

(ii) if paragraph 10 of this Schedule applies, on the day mentioned in sub-paragraph (i) of this paragraph or, if the day on which the appropriate authority complies with paragraph 10(3) of this Schedule is later, on that day;

(b) if paragraph 10 of this Schedule applies and the application is not one covered by paragraph (a), on the day the appropriate authority complies with paragraph 10(3) of this Schedule;

(c) in all other cases, on the day the regulator receives a duly-made application.

(3) In calculating the period the following periods must be ignored—

(a) a period beginning with the service of a notice requiring further information under paragraph 4(1) to the receipt by the regulator of that information;

(b) a period for representations mentioned in paragraph 9(4)(c) to the extent that it does not overlap with a period for representations mentioned in paragraph 6(1)(c);

(c) a period of 20 days after the service of a notice under regulation 15(5);

(d) where regulation 15(6) applies, a period beginning with the day on which the regulator informs the applicant of the proposed condition and ending when the regulator is satisfied that the landowner has consented to that condition;

(e) a period during which national security or confidentiality is being considered in relation to the application, that is to say—

(i) any period during which a determination under regulation 47(3) or (7) or 50 is being considered (including any appeal), or

(ii) a period of 15 working days after the service of a notice under regulation 49(1);

(f) if the regulator informs the public in relation to a draft decision in accordance with paragraph 1(d) of Annex IV to the Industrial Emissions Directive, a period of 20 working days.

**Notification of a determination or decision**

**17.**—(1) As soon as is reasonably practicable after it determines an application or decides to make a regulator-initiated variation, the regulator must comply with sub-paragraph (2).

(2) The regulator must—

(a) notify the applicant or, for a regulator-initiated variation, the operator of—

(i) its determination or decision,

(ii) the rights of appeal the applicant or operator has under regulation 31, and

(iii) the requirements relating to the exercise of those rights in paragraphs 2 and 3 of Schedule 6, and

(b) if paragraph 10 applies, notify the appropriate authority of the determination or decision.

(3) In this paragraph, "determination" and "decision" include the reasons for the determination or decision.

**Date of effect of certain determinations and decisions**

**18.**—(1) This paragraph applies to—

(a) a determination by which the regulator grants an application which—

(i) varies an environmental permit in consequence of an application for variation, transfer in whole or in part, or partial surrender, or

(ii) grants a new environmental permit in consequence of an application for partial transfer, and

(b) a decision to make a regulator-initiated variation.

(2) The determination or decision must specify any variation and the date it is to take effect.

(3) If the regulator grants an application for the transfer of an environmental permit in whole or in part, the determination must specify the date agreed between the regulator and the applicant that the transfer is to take effect.

**Form of certain determinations and decisions: consolidation of permits**

**19.**—(1) This paragraph applies to every determination and decision to which paragraph 18 applies.

(2) A determination or decision may comprise—

(a) a consolidated permit reflecting the variations, and

(b) a notice specifying the variations included in that consolidated permit.

(3) Only the variations specified are subject to the right of appeal in regulation 31(1)(b) or (c).

**Incidents and accidents: deemed condition of a permit**

**20.** Every environmental permit in relation to a regulated facility to which Schedule 7, 13 or 14 applies is deemed to contain the following conditions, unless such conditions are included in the permit—

(a) in the event that the operation of a regulated facility gives rise to an incident or accident which significantly affects the environment, the operator of that regulated facility must immediately—

(i) inform the regulator,

(ii) take the measures necessary to limit the environmental consequences of such an incident or accident, and

(iii) take the measures necessary to prevent further possible incidents or accidents;

(b) in the event of a breach of any condition of a permit, the operator of a regulated facility must immediately—

(i) inform the regulator, and

(ii) take the measures necessary to ensure that compliance is restored within the shortest possible time;

(c) in the event of a breach of any condition of a permit which poses an immediate danger to human health or threatens to cause an immediate significant adverse effect on the environment, the operator of a regulated facility must immediately suspend the operation of the regulated facility or the relevant part of it until compliance with the condition of the permit has been restored.

# PART 2

## Compensation in relation to conditions affecting certain interests in land

**Interpretation**

**1.** In this Part—

"grantor" means a person who grants the operator rights pursuant to regulation 15(2);

"relevant interest" means an interest in land out of which rights have been granted pursuant to regulation 15(2);

"rights" means the rights granted by the grantor.

**Entitlement to compensation**

**2.** A grantor is entitled to be paid compensation under this Part by the operator.

**Loss and damage for which compensation is payable**

**3.**—(1) Subject to paragraph 6(3) and (5)(b), compensation is payable for loss and damage of the following descriptions—

(a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights;

(b) depreciation in the value of any other interest in land to which the grantor is entitled which results from the exercise of the rights;

(c) loss or damage, in relation to any relevant interest to which the grantor is entitled, which—

(i) is attributable to the grant of the rights or the exercise of them,

(ii) does not consist of depreciation in the value of that interest, and

(iii) is loss or damage for which the grantor would have been entitled to compensation by way of compensation for disturbance if the circumstances specified in sub-paragraph (2) applied;

(d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which—

(i) is not a relevant interest, and

(ii) results from the grant of the rights or the exercise of them;

(e) loss in respect of work carried out by or on behalf of the grantor which is rendered abortive by the grant of the rights or the exercise of them.

(2) For the purpose of sub-paragraph (1)(c)(iii), the circumstances are that the relevant interest was acquired compulsorily—

(a) under the Acquisition of Land Act 1981(**a**), and

(b) in pursuance of a notice to treat served on the date on which the rights were granted.

**Date when entitlement to compensation arises**

**4.**—(1) An entitlement to compensation under this Part arises on the date of the grant of the rights.

(2) But if an appeal against the conditions of the environmental permit which rendered the grant of rights necessary is refused, the entitlement to compensation arises on the date the appeal is determined.

**Application for compensation**

**5.**—(1) An application for compensation under this Part must be made by the grantor—

(a) within 12 months after the date on which the entitlement to compensation arises, or

(b) within 6 months after the date on which the rights are first exercised.

(2) An application must be—

(a) made in writing,

(b) made to the operator to whom the rights were granted, and

(c) delivered at or sent by pre-paid post to the last known address for correspondence of that operator.

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(**a**) 1981 c. 67.

(3) The application must contain, or be accompanied by—

(a) a copy of the grant of rights in respect of which the grantor's entitlement arises and any plans attached to that grant,

(b) a description of the exact nature of any interest in land in respect of which compensation is applied for,

(c) a statement of the amount of compensation applied for—

(i) distinguishing the amounts applied for under each of paragraph 3(1)(a) to (e), and

(ii) showing how the amount applied for under each paragraph has been calculated, and

(d) if the date on which the entitlement to compensation arises is ascertained in accordance with paragraph 4(2), a copy of the notice of the final determination of the appeal.

**Assessment of the amount to be paid by way of compensation**

**6.**—(1) The amount to be paid by way of compensation under this Part must be assessed in accordance with this paragraph.

(2) The rules set out in section 5 of the Land Compensation Act 1961(**a**) have effect for the purposes of this paragraph as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land, so far as applicable and subject to any necessary modifications.

(3) No account is to be taken of any enhancement of the value of an interest in land by reason of any building erected, work done, or improvement or alteration made on land in which the grantor is, or was at the time the building or other work was carried out, directly or indirectly concerned, if the work carried out—

(a) was not reasonably necessary, and

(b) was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of a loss under paragraph 3(1)(e), expenditure incurred in the preparation of plans or on other similar preparatory matters is to be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a mortgage—

(a) the compensation must be assessed as if the interest were not subject to the mortgage, and

(b) no compensation is payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage).

(6) Compensation must include an amount equal to the grantor's reasonable valuation and legal expenses incurred as a result of making the application under paragraph 5 to which the compensation relates.

**Payment of compensation**

**7.**—(1) Compensation in respect of an interest which is subject to a mortgage must be paid—

(a) to the mortgagee, or

(b) if there is more than one mortgagee, to the first mortgagee,

and must, in either case, be applied by the mortgagee as if it were proceeds of sale.

(2) Amounts of compensation determined under this Part are payable—

(a) where the operator and either the grantor or mortgagee agree that a single payment is to be made on a specified date, on that date;

(b) where the operator and either the grantor or mortgagee agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment;

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(**a**) 1961 c. 33; section 5 was amended by paragraph 1 of Schedule 15, and Part 3 of Schedule 19, to the Planning and Compensation Act 1991 (c. 34), and by S.I. 2009/1307.

(c) in any other case, subject to any direction of the Upper Tribunal or the court, as soon as reasonably practicable after the amount of the compensation has been determined.

(3) Any question of the application of paragraph 6(3) or dispute as to the amount of compensation must be referred to and determined by the Upper Tribunal.

(4) In relation to the determination of such a question, section 4 of the Land Compensation Act 1961(**a**) applies as if the reference in section 4(A1) of that Act to section 1 of that Act(**b**) were a reference to sub-paragraph (3) of this paragraph.

**Interest payable on compensation**

**8.**—(1) Compensation payable under this Part carries interest at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 from the date specified in sub-paragraph (2) to payment.

(2) The date is—

(a) in the case of compensation payable under paragraph 3(1)(a) or (b), the date of depreciation;

(b) in the case of compensation payable under paragraph 3(1)(c), (d) or (e), the date on which the loss is sustained, the damage is done, or the injurious affection occurs, as the case may be;

(c) in the case of compensation payable under paragraph 6(6), the date on which the expenses become payable.

(3) If it appears to a person ("A") that A may become liable to pay to another person ("B") compensation under this Schedule or interest under this paragraph, on the written request of B, A may make one or more payments on account of such compensation or interest.

(4) A may recover the payment or excess if, after A makes a payment under sub-paragraph (3)—

(a) it is agreed or determined that A is not liable to pay compensation or interest, or

(b) by reason of any agreement or determination, the payment is shown to be excessive.

# SCHEDULE 6

Regulation 31(12)

## Appeals to the appropriate authority

**Interpretation**

**1.** In this Schedule—

"appeal" means an appeal to the appropriate authority;

"appointed person" means the person appointed under paragraph 5;

"determination" includes the reasons for the determination.

**Making an appeal**

**2.**—(1) A person making an appeal must—

(a) send the appropriate authority written notice of the appeal and the documents specified in sub-paragraph (2), and

(b) at the same time send the regulator copies of the notice and documents.

(2) The documents are—

(a) a statement of the grounds of appeal,

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(**a**) Section 4 was amended by S.I. 2009/1307.
(**b**) Section 1 was amended by S.I. 2009/1307.

(b) a copy of any relevant application,

(c) a copy of any relevant environmental permit,

(d) a copy of any relevant correspondence between the appellant and the regulator,

(e) a copy of any decision or notice which is the subject matter of the appeal, and

(f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be dealt with by way of written representations.

(3) An appellant may withdraw an appeal by notifying the appropriate authority in writing and must send a copy of that notification to the regulator.

**Time limit for making an appeal**

**3.**—(1) A notice of appeal must be given—

(a) in relation to an appeal against a revocation notice, before the revocation notice takes effect;

(b) in relation to the withdrawal of a duly-made application under paragraph 4(2) of Part 1 of Schedule 5, not later than 15 working days after the date of the further notice served under that paragraph;

(c) in relation to an enforcement notice, a regulator-initiated variation, suspension notice, mining waste facility closure notice, landfill closure notice, flood risk activity emergency works notice, flood risk activity notice of intent or flood risk activity remediation notice, not later than 2 months after the date of the variation or notice;

(d) in relation to a prohibition notice, not later than 21 days after the date of the notice;

(e) in any other case, not later than 6 months after the date of the decision or deemed decision.

(2) The appropriate authority may in a particular case allow notice of appeal to be given after the periods mentioned in sub-paragraph (1)(b) to (e) have expired.

**Notice to affected and interested persons**

**4.**—(1) The regulator must, within 10 working days after receipt of a copy of a notice of appeal, give notice of it to any person whom the regulator considers is affected by, is likely to be affected by, or has an interest in, the subject matter of the appeal.

(2) A notice must include—

(a) a description of the subject matter of the appeal, and

(b) a statement that representations in writing may be made to the appropriate authority within a period of 15 working days after the date of the notice.

(3) The regulator must notify the appropriate authority of the persons to whom, and the date on which, such a notice was sent, within 10 working days after sending it.

(4) The regulator must give notice of the withdrawal of an appeal to every person given such a notice.

**Hearing before an appointed person**

**5.**—(1) Before determining an appeal the appropriate authority may give the appellant and the regulator an opportunity of appearing before and being heard by a person appointed by the appropriate authority, and must do so in a case where a request is duly made by the appellant or the regulator to be so heard.

(2) If the appointed person so decides, a hearing may be held wholly or to any extent in private.

(3) The persons entitled to be heard at a hearing are—

(a) the appellant,

(b) the regulator, and

(c) a person who has made representations to the regulator in respect of the subject matter of the appeal within the period mentioned in paragraph 4(2)(b).

(4) The appointed person may permit other persons to be heard and such permission must not be unreasonably withheld.

(5) After the hearing, the appointed person must make a report in writing to the appropriate authority which must include the appointed person's—

(a) conclusions, and

(b) recommendations or reasons for not making recommendations.

(6) Subsections (2) to (5) of section 250 of the Local Government Act 1972(**a**) apply to hearings held under this paragraph by an appointed person as they apply to inquiries caused to be held under that section by a Minister with the following modifications—

(a) the substitution in subsection (2) for the reference to the person appointed to hold the inquiry with a reference to the appointed person;

(b) the substitution in subsection (4) for the references to the Minister causing the inquiry to be held with references to the appropriate authority;

(c) the substitution of the reference in that subsection to a local authority with a reference to the regulator;

(d) the substitution in subsection (5) for the reference to the Minister causing the inquiry to be held with a reference to the appropriate authority.

**Notice of determination of an appeal**

**6.**—(1) The appropriate authority must give notice to the appellant of its determination and provide the appellant with a copy of the report mentioned in paragraph 5(5).

(2) At the same time the appropriate authority must send—

(a) a copy of the documents mentioned in sub-paragraph (1) to the regulator, and

(b) a copy of its determination to any person who made representations in respect of the subject matter of the appeal to the authority, or at any hearing.

**Procedure following the quashing of a determination of an appropriate authority**

**7.**—(1) If a determination is quashed in proceedings before a court, the appropriate authority—

(a) must send to the persons notified of its determination under paragraph 6 a statement of the matters in relation to which further representations are invited,

(b) must give those persons the opportunity of making written representations in respect of those matters within 20 working days after the date of the statement, and

(c) may cause a hearing to be held or reopened.

(2) If a hearing is held or reopened under sub-paragraph (1)(c), paragraphs 5(2) to 5(6) apply as they apply to a hearing held under paragraph 5(1).

(3) Paragraph 6 applies to the redetermination of an appeal as it applies to the determination of that appeal.

(**a**) 1972 c. 70; section 250 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), Part 3 of Schedule 12 to the Housing and Planning Act 1986 (c. 63) and the Statute Law Repeals Act 1989 (c. 43).

# SCHEDULE 7

Regulation 35(1)

## Part A installations: Industrial Emissions Directive

### Application

**1.** This Schedule applies to every Part A installation.

### Interpretation

**2.** When interpreting the Industrial Emissions Directive for the purposes of this Schedule—

(a) except where defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) "installation" means Part A installation;

(c) "permit" means environmental permit;

(d) the competent authority is the regulator;

(e) "substance" is to be read as including, after the words "its compounds" in Article 3(1) of the Industrial Emissions Directive, the words "and any biological entity or micro-organism";

(f) "general binding rule" means a standard rule published under regulation 26.

### Exercise of regulator's functions: general

**3.** The regulator must exercise its functions under these Regulations for the purpose of achieving a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land.

### Applications for the grant of an environmental permit

**4.** The regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 12 of the Industrial Emissions Directive.

### Exercise of relevant functions

**5.** The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 5(1) and (3);

(b) Article 7;

(c) Article 8(2);

(d) Article 9;

(e) Article 11;

(f) Article 13(7);

(g) Article 14;

(h) Article 15 (excluding the penultimate sub-paragraph of Article 15(4));

(i) Article 16;

(j) Article 17;

(k) Article 18;

(l) Article 20(1) and (2);

(m) Article 22 (excluding the last sub-paragraph of Article 22(2));

(n) Article 26(4).

**Developments in best available techniques**

**6.**—(1) The regulator must ensure that it is informed of developments in best available techniques and of the publication of any new or updated BAT conclusions and where appropriate must exercise its functions so as to encourage the application of emerging techniques, in particular those identified in BAT reference documents.

(2) In this paragraph—

"BAT conclusions" has the meaning given in Article 3(12) of the Industrial Emissions Directive;

"BAT reference document" has the meaning given in Article 3(11) of the Industrial Emissions Directive;

"best available techniques" has the meaning given in Article 3(10) of the Industrial Emissions Directive;

"emerging technique" has the meaning given in Article 3(14) of the Industrial Emissions Directive.

**Review of environmental permits**

**7.** The regulator must review an environmental permit in accordance with Article 21 of the Industrial Emissions Directive if any of the circumstances in that Article applies in relation to the Part A installation whose operation the permit authorises.

**Public participation**

**8.** The regulator must exercise its functions so as to meet the requirements of Article 24 of the Industrial Emissions Directive.

**Inspections**

**9.** When inspecting a regulated facility in accordance with regulation 34(2) the regulator must comply with Article 23 of the Industrial Emissions Directive.

# SCHEDULE 8

Regulation 35(1)

## Part B installations and Part B mobile plant etc.

**Application**

**1.**—(1) Subject to sub-paragraph (2), in England and Wales, this Schedule applies in relation to every Part B installation.

(2) Where installations are Part B installations solely because of the aggregation of the net rated thermal input of two or more appliances in accordance with paragraph 2 under the heading "Interpretation and application of Part B" in Section 1.1 of Part 2 of Schedule 1, only paragraph 4(1)(a) of this Schedule applies to those installations (in addition to the provisions in Schedule 24).

(3) In Wales only, this Schedule also applies in relation to every small waste incineration plant (in addition to the provisions in Schedule 13) and in relation to every solvent emission activity (in addition to the provisions in Schedule 14).

**Interpretation**

**2.** For the purposes of this Schedule—

"best available techniques" means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of

particular techniques for providing in principle the basis for emission limit values relevant to air pollution designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole, where—

(a) "techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

(b) "available techniques" means those techniques developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, and which are reasonably accessible to the operator;

(c) "best" means most effective in achieving a high general level of protection of the environment as a whole;

"installation" means a Part B installation, Part B mobile plant, small waste incineration plant or solvent emission activity.

**Exercise of regulator's functions: general**

**3.** The regulator must exercise its functions under these Regulations for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

**Applications for the grant of an environmental permit**

**4.**—(1) The regulator must ensure that every application for the grant of an environmental permit includes the following information—

(a) the installation and its activities;

(b) the sources of emissions to air from the installation;

(c) the nature and quantities of foreseeable emissions into the air from the installation as well as identification of significant effects of those emissions on the environment;

(d) the proposed technology or other techniques for preventing, or where that is not possible, reducing emissions to air from the installation;

(e) further measures planned to ensure that the installation is operated in such a way that—

(i) all appropriate preventive measures are taken against pollution, in particular through the application of best available techniques, and

(ii) no significant pollution is caused;

(f) measures planned to monitor emissions into the air;

(g) the main alternatives, if any, to the techniques or measures required in paragraphs (d) to (f);

(h) a non-technical summary of the details referred to in paragraphs (a) to (g).

(2) Sub-paragraph (1)(d) does not apply to the extent that the application relates to the burning of waste oil in an appliance with a net rated thermal input of less than 0.4 megawatts at a Part B installation.

(3) In the case of a new installation or a substantial change where Article 4 of Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment(**a**) applies, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 or 7 of that Directive shall be taken into consideration by the regulator for the purposes of granting the environmental permit.

(**a**) OJ No L 26, 28.1.2012, p 1, as last amended by Directive 2014/52/EU (OJ No L 124, 25.4.2014, p 1).

**Exercise of relevant functions**

**5.**—(1) The regulator must, for the purpose of preventing or, where that is not practicable, reducing emissions into the air, exercise its relevant functions in relation to the installations to which this Schedule applies—

(a) so as to ensure that they are operated in such a way that—

(i) appropriate preventive measures are taken against air pollution, in particular through the application of best available techniques;

(ii) no significant air pollution is caused;

(b) where an environmental quality standard requires stricter conditions than those achievable by the use of best available techniques, additional measures are required by the permit, without prejudice to other measures which might be taken to comply with environmental quality standards;

(c) permits include emission limit values, which may if appropriate be supplemented or replaced by equivalent parameters or technical measures, for polluting substances likely to be emitted into the air from the installation concerned in significant quantities;

(d) where emissions of a greenhouse gas from an installation are specified in Annex 1 to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community(**a**) in relation to an activity carried out in that installation, the permit does not include an emission limit value for direct emissions of that gas unless it is necessary to ensure that no significant local pollution is caused.

(2) The regulator must ensure that emission limit values or equivalent parameters or technical measures are based on best available techniques without prescribing the use of any technique or specific technology, but taking into account the technical characteristics of the installation, including (except in the case of mobile plant) its geographical location and the local environmental conditions.

(3) In this paragraph "substance" means any chemical element and its compounds and any biological entity or micro-organism, with the exception of the following substances—

(a) radioactive substances as defined in Article 1 of the Basic Safety Standards Directive;

(b) genetically modified micro-organisms as defined in Article 2(b) of Directive 2009/41/EC of the European Parliament and of the Council on the contained use of genetically modified micro-organisms(**b**);

(c) genetically modified organisms as defined in point 2 of Article 2 of Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms(**c**).

**Change in operation**

**6.**—(1) Operators holding environmental permits for installations to which this Schedule applies must notify the regulator of any substantial change in the operation of that installation.

(2) Where there is a substantial change in the operation of an installation, the regulator must ensure that the environmental permit is reviewed and, if necessary, updated.

**Review of permits**

**7.** The regulator must review an environmental permit where—

(**a**) OJ No L 275, 25.10.2003, p 32, as last amended by Decision (EU) 2015/1814 (OJ No L 264, 9.10.2015, p 1).
(**b**) OJ No L 125, 21.5.2009, p 75.
(**c**) OJ No L 106, 17.4.2001, p 1, as last amended by Directive (EU) 2015/412 (OJ No L 68, 13.3.2015, p 1).

(a) the air pollution caused by the installation is of such significance that the existing emission limit values of the permit need to be revised or new values need to be included in the permit,

(b) substantial changes in best available techniques make it possible to reduce emissions significantly without imposing excessive costs,

(c) the operational safety of the process or activity requires other techniques to be used, or

(d) new legislation necessitates a review.

**Developments in best available techniques**

**8.** The regulator must ensure that it is informed of developments in best available techniques.

# SCHEDULE 9

Regulation 35(1)

## Waste operations and materials facilities

## PART 1

### Waste operations

**Application**

**1.** This Schedule applies in relation to every waste operation.

**Interpretation**

**2.** In this Schedule—

"disposal" has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly;

"recovery" has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly.

**Exercise of relevant functions**

**3.**—(1) The regulator must exercise its relevant functions—

(a) for the purposes of ensuring that—

(i) the waste hierarchy referred to in Article 4 of the Waste Framework Directive is applied to the generation of waste by a waste operation;

(ii) waste generated by a waste operation is treated in accordance with Article 4 of the Waste Framework Directive;

(b) for the purposes of implementing Article 13 of the Waste Framework Directive, but not in respect of nuisances and hazards arising from traffic beyond the site of a waste operation;

(c) so as to ensure that the requirements in the second paragraph of Article 23(1) of the Waste Framework Directive are met;

(d) so as to ensure compliance with the following Articles of the Waste Framework Directive—

(i) Article 18(2)(b) and (c);

(ii) Article 23(3);

(iii) Article 23(4);

(iv) Article 35(1).

(2) But the following duties take effect in relation to an environmental permit which was in force on the date of coming into force of the Waste (England and Wales) Regulations 2011(**a**) on the first review of the permit by the regulator (under regulation 34(1)) after that date—

(a) the duty in sub-paragraph (1)(a), (d)(i) and (d)(iii);

(b) the duty in sub-paragraph (1)(c), to the extent that it is imposed in relation to Article 23(1)(e) and (f).

# PART 2

## Materials facilities

### CHAPTER 1

### Introductory provisions, conditions and functions

**Assessment and notification**

**1.**—(1) At the start of each reporting period, the operator of a materials facility must assess the amount of mixed waste material that facility is likely to receive during the relevant year by having regard to—

(a) the amount of mixed waste material received at that facility during the period of 12 months immediately preceding the start of that reporting period, and

(b) the anticipated amount of mixed waste material that will be received by that facility during the relevant year.

(2) The operator must notify the regulator before the end of the reporting period if the assessment undertaken at the start of that period indicates that the materials facility is likely to receive a minimum of 1,000 tonnes of mixed waste material during the relevant year.

(3) Where the operator has given a notification under sub-paragraph (2), no further notification is required under that sub-paragraph in relation to any subsequent assessment, for so long as that notification is not withdrawn.

(4) The operator may withdraw, in writing, a notification given under sub-paragraph (2) at any time if the operator considers that the materials facility is not likely to receive a minimum of 1,000 tonnes of mixed waste material during the relevant year.

(5) In this paragraph, "relevant year" means the period of 12 months that commences on the first day of a reporting period.

**Interpretation**

**2.**—(1) In this Schedule—

"material particles" means—

(a) for specified output material that is made up in largest proportion of glass material, particles of that material that measure less than 13 millimetres along their longest dimension, and

(b) in relation to all other types of specified output material and for mixed waste material, particles of material measuring less than 55 millimetres along their longest dimension;

"materials facility" means, subject to sub-paragraph (2), a regulated facility or part of a regulated facility that receives mixed waste material in order to separate it into specified output material for the purpose of selling it, or transferring it to other facilities or persons to enable that material to be recycled by those facilities or persons;

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(**a**) S.I. 2011/988, amended by S.I. 2011/600 (W. 88), 2043, 2012/767, 1889, 2013/141, 755 (W. 90), 2014/656, 2015/483, 1360, 1417 (W. 141), 1640, 2016/58 (W. 28), 691 (W. 189) and 738.

"mixed waste material" means waste that—

(a) originates—

(i) from households, or

(ii) from other sources but is similar to household waste in terms of its nature or composition, and

(b) consists in largest proportion of two or more of the following kinds of target material mixed together—

(i) glass;

(ii) metal;

(iii) paper;

(iv) plastic;

"non-recyclable material" means waste material that is not capable of being recycled;

"non-target material" means material that is capable of being recycled but is not a target material;

"paper" includes cardboard and beverage cartons that include cardboard as a composite material;

"reporting period" means any of the following periods—

(a) 1st January to 31st March;

(b) 1st April to 30th June;

(c) 1st July to 30th September;

(d) 1st October to 31st December;

"specified output material" means a batch of material (whether or not waste) that is—

(a) produced from a separating process for mixed waste material, and

(b) made up of one of the following kinds of target material, in largest proportion—

(i) glass;

(ii) metal;

(iii) paper;

(iv) plastic;

"target material" means a material that is identified by the operator of a materials facility as destined to be separated out from mixed waste material in order to produce bulk quantities of that identified material.

(2) In this Schedule—

(a) any reference to a "materials facility" excludes a facility or a part of a facility that undertakes the processing or sorting of WEEE, waste batteries or accumulators;

(b) references to "recycled" or "recyclable" are to be construed in accordance with the meaning of "recycling" given in Article 3(17) of the Waste Framework Directive.

**Specification of conditions of environmental permits and exercise of relevant functions**

**3.**—(1) An environmental permit relating to a materials facility is subject to the condition that the operator of that facility must comply with paragraph 1(1) and (2) of this Part.

(2) Where the operator of a materials facility has given notification under paragraph 1(2) of this Part, an environmental permit relating to that facility is subject to the condition that the operator must comply with Chapter 2 of this Part for so long as that notification has not been withdrawn under paragraph 1(4) of this Part.

(3) The regulator must exercise its relevant functions in relation to a materials facility to ensure compliance with Chapter 2 of this Part.

(4) In the event of any inconsistency between the requirements imposed by virtue of Chapter 2 of this Part and any other condition contained in any environmental permit relating to a materials facility, the requirements imposed by Chapter 2 of this Part prevail.

## CHAPTER 2

### Measurement and reporting requirements for materials facilities

**Input material**

**4.**—(1) The operator of a materials facility must measure the total weight in tonnes of mixed waste material received at that facility, from each supplier, during each reporting period.

(2) The operator of a materials facility must take samples of the mixed waste material received at that facility, from each supplier, during each reporting period, except where that material is to be transferred to another materials facility for the purpose of separating it into specified output material, and measure the composition of those samples.

(3) For the purposes of sub-paragraph (2), one sample must be taken for every 125 tonnes of mixed waste material received at the materials facility from each supplier.

(4) The total weight of all the samples taken for the purposes of sub-paragraph (3) must provide an average weight of 60kg or more per sample, and each sample taken must not weigh less than 55kg.

(5) For the purposes of sub-paragraph (2), measuring the composition of a sample taken means identifying the materials comprising that sample by reference to—

(a) the types of target material, non-target material and non-recyclable material that is contained in the sample, and

(b) the weight in kilograms of each type of target material, non-target material and non-recyclable material that is so identified.

(6) Target material that is identified in a sample taken for the purposes of sub-paragraph (2) must, as a minimum, be separately identified by reference to the following materials—

(a) glass;

(b) metal;

(c) paper;

(d) plastic.

(7) If the sample taken under sub-paragraph (2) contains material particles, they are deemed to comprise the proportions of target materials, non-target materials and non-recyclable materials already identified as making up the other contents of that sample, and the weight of the material particles must be apportioned according to those proportions for that particular sample.

(8) For the purposes of this paragraph, in relation to a batch of mixed waste material received at a materials facility—

(a) where that batch comprises material collected pursuant to arrangements made by a waste collection authority under section 45(1)(a) or (b) of the 1990 Act, that authority is the supplier;

(b) where that batch has been transferred from another materials facility, the material facility from which that material was transferred is the supplier;

(c) in a case not falling within paragraph (a) or (b), the person who collected the material or, if that person is not known, the person responsible for delivering it to the materials facility is the supplier;

(d) where the batch comprises material from more than one supplier, and the proportion of that batch attributable to a particular supplier cannot reasonably be ascertained, an estimate of the proportion is sufficient.

**Output material**

**5.**—(1) Apart from the mixed waste material mentioned in sub-paragraph (2) and the specified output material mentioned in sub-paragraph (3), the operator of a materials facility must measure the total weight in tonnes of all other waste material that leaves the facility in each reporting period.

(2) The operator of a materials facility must measure the total weight in tonnes of all mixed waste material that leaves the facility in each reporting period to be transferred to another materials facility for the purpose of separating that material into specified output material.

(3) The operator of a materials facility must measure the total weight in tonnes of specified output material that leaves the facility in each reporting period.

(4) The operator of a materials facility must take samples of the specified output material produced at that facility in a reporting period and measure the composition of those samples.

(5) For the purpose of fulfilling the requirements in sub-paragraphs (3) and (4), the specified output material must, as a minimum, be identified by reference to the grade of glass, metal, paper or plastic material making up each batch of specified output material.

(6) For the purpose of sub-paragraph (4), measuring the composition of a sample taken by the operator means identifying the materials comprising that sample, by reference to—

(a) the type of target material, non-target material and non-recyclable material that is contained in the sample, and

(b) the weight in kilograms of each type of target material, non-target material and non-recyclable material that is so identified.

(7) The samples mentioned in sub-paragraph (4) must be taken at a minimum frequency of once per the amount in tonnes that is specified in the second column of the following table, in relation to the type of target material that is mentioned in the first column—

| *Target material* | *Amount* |
|---|---|
| Glass | 50 tonnes |
| Paper | 60 tonnes |
| Metal | 20 tonnes |
| Plastic | 15 tonnes |

(8) The minimum weight of any sample taken for the purposes of sub-paragraph (4) is—

(a) 10kg in relation to glass target material,

(b) 50kg in relation to paper target material,

(c) 20kg in relation to plastic target material, and

(d) 10kg in relation to metal target material.

(9) For the purposes of sub-paragraph (5), the grade of a material means a description of that kind of material by reference to its particular material specification.

(10) If the sample taken under sub-paragraph (4) contains material particles, they are deemed to comprise the proportions of target materials, non-target materials and non-recyclable materials already identified as making up the other contents of that sample, and the weight of the material particles must be apportioned according to those proportions for that particular sample.

**Records**

**6.**—(1) The operator of a materials facility must record the following information—

(a) the measurements taken under paragraph 4(1);

(b) details of all the samples taken under paragraph 4(2) including the weight of each sample and its composition;

(c) the measurements taken under paragraph 5(1) and details of where the other waste material that leaves the facility in each reporting period is sent;

(d) the measurements taken under paragraph 5(2) and details of where the mixed waste material that leaves the facility in each reporting period is sent;

(e) the measurements taken under paragraph 5(3) and details of where the specified output material that leaves the facility in each reporting period is sent;

(f) details of all the samples taken under paragraph 5(4) including the weight of each sample and its composition;

(g) details of the amount in tonnes of specified output material that is produced by the materials facility in a reporting period, by reference to the grade of glass, metal, paper and plastic target material that makes up that batch of material.

(2) The information recorded under sub-paragraph (1) must—

(a) be retained by the operator of a materials facility for a minimum of 4 years from the date that it is first recorded, and

(b) be produced for inspection by the regulator if required during those 4 years.

**Reports to the regulator**

**7.**—(1) The operator of a materials facility must provide a report to the regulator that includes the information set out in sub-paragraphs (3) and (4).

(2) The report mentioned in sub-paragraph (1) must be—

(a) produced in electronic format, and

(b) submitted to the regulator in respect of a reporting period within 1 month of the expiry of that period.

(3) The following information must be provided for all mixed waste material that is received by the materials facility during a reporting period—

(a) the measurements taken under paragraph 4(1);

(b) the total number of all samples taken for each supplier under paragraph 4(2);

(c) the total weight in kilograms of all the samples taken for each supplier under paragraph 4(2);

(d) the average percentage composition levels of all of the samples taken under paragraph 4(2) for each supplier, by reference to the following target materials—

(i) glass;

(ii) metal;

(iii) paper;

(iv) plastic;

(e) the average percentage composition levels of each of the following categories of material found in all the samples taken for each supplier under paragraph 4(2)—

(i) target materials;

(ii) non-target materials, and

(iii) non-recyclable materials;

(f) the standard deviation of the average percentage composition levels for the target materials found in all the samples taken for each supplier under paragraph 4(2).

(4) The following information must be provided in respect of specified output material that leaves the materials facility during a reporting period—

(a) the measurements taken under paragraph 5(1) and details of where the other waste material is sent in a reporting period;

(b) the measurements taken under paragraph 5(2) and details of where the mixed waste material is sent in a reporting period;

(c) the measurements taken under paragraph 5(3);

(d) the total number of all samples taken under paragraph 5(4);

(e) the total weight in kilograms of all the samples that are taken under paragraph 5(4);

(f) the average percentage composition levels of all of the samples taken under paragraph 5(4), by reference to the grades of glass, metal, paper and plastic identified within those samples;

(g) the average percentage composition levels of each of the following categories of material found in all the samples taken under paragraph 5(4)—

(i) target materials;

(ii) non-target materials, and

(iii) non-recyclable materials;

(h) the standard deviation of the average percentage composition levels for the target materials found in all the samples taken under paragraph 5(4).

(5) In this paragraph, "average" means the arithmetic mean.

# SCHEDULE 10

Regulation 35(1)

## Landfill

### Application

**1.** This Schedule applies in relation to every landfill except a landfill which finally ceased to accept waste for disposal before 16th July 2001.

### Interpretation: general

**2.**—(1) In this Schedule—

(a) unless otherwise provided, an expression that is defined in the Landfill Directive has the meaning given in that Directive,

(b) "the Decision" means Council Decision 2003/33/EC(**a**),

(c) "the Decision Annex" means the Annex to the Decision, and

(d) "landfill" has the meaning given in Article 2(g) of the Landfill Directive, but does not include any operation excluded from the scope of that Directive by Article 3(2).

(2) When interpreting the Landfill Directive and the Decision for the purposes of this Schedule—

(a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part,

(b) "landfill permit" means environmental permit,

(c) "nature protection zone" means any—

(i) European site (which has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2010(**b**)), or

(ii) site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981(**c**)),

(d) "PAHs (polycyclic aromatic hydrocarbons)" means Naphthalene, Acenaphthylene, Acenaphthene, Anthracene, Benzo(a)anthracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(g,h,i)perylene, Benzo(a)pyrene, Chrysene, Coronene,

(**a**) OJ No L 11, 16.1.2003, p 27.
(**b**) S.I. 2010/490, amended by S.I. 2012/1927; there are other amending instruments but none is relevant.
(**c**) 1981 c. 69; the definition was inserted by paragraph 5(2) of Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37).

Dibenzo(a,h)anthracene, Fluorene, Fluoranthene, Indeno(1,2,3-c,d)pyrene, Phenanthrene and Pyrene,

(e) "permit" means environmental permit,

(f) "SIC code" means the UK Standard Industrial Classification of Economic Activities 2007 (SIC 2007) published by the Office for National Statistics on 14th December 2007 and implemented on 1st January 2008(**a**), and

(g) the competent authority is the regulator.

**Applications for the grant of an environmental permit**

**3.** The regulator must require that every application for the grant of an environmental permit includes the information specified in Article 7 of the Landfill Directive.

**Inspection prior to operation**

**4.** The regulator must inspect every landfill site so as to comply with the requirements in Article 8(c) of the Landfill Directive.

**Exercise of relevant functions**

**5.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Landfill Directive—

(a) Article 4;

(b) Article 5(3) and (4);

(c) Article 6;

(d) Article 8, but not in respect of nuisances and hazards arising from traffic beyond the site of a landfill;

(e) Article 9;

(f) Article 10;

(g) Article 11(1);

(h) Article 12;

(i) Article 13;

(j) Article 14.

(2) The regulator must exercise those relevant functions having regard to Article 1 of the Landfill Directive.

(3) The regulator must exercise those relevant functions so as to ensure compliance with the requirements imposed on the member State by the following provisions of the Decision—

(a) Article 2;

(b) Article 3;

(c) Article 4.

(4) The regulator may exercise those relevant functions so as to permit the storage of metallic mercury in accordance with Regulation (EC) No 1102/2008 of the European Parliament and of the Council on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury(**b**).

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(**a**) See http://www.ons.gov.uk/ons/guide-method/classifications/current-standard-classifications/standard-industrial-classification/index.html. A copy may be obtained from the Waste Regulation Team, the Department for Environment, Food and Rural Affairs, Area 2B, Nobel House, 17 Smith Square, London SW1P 3JR.

(**b**) OJ No L 304, 14.11.2008, p 75.

(5) For the purposes of Article 5(1) of that Regulation, the regulator must send to the Secretary of State—

(a) a copy of any permit issued for a facility designated to store metallic mercury temporarily or permanently, and

(b) the respective safety assessment pursuant to Article 4(1) of that Regulation.

**Interpretation of the Landfill Directive for the exercise of relevant functions**

**6.** When interpreting the Landfill Directive for the purposes of paragraph 5(1)—

(a) in Article 6(a), the words "This provision may not apply to" is to be read as "This provision does not apply to",

(b) in Article 8(a)(iv), ignore the last sentence,

(c) the last sentence of paragraph 2 of Annex I is to be read as "The above provisions do not apply to inert landfills.", and

(d) in paragraph 3(3) of Annex I, ignore the sentence immediately following the table headed "Leachate collection and bottom sealing".

**Interpretation of the Decision Annex for the exercise of relevant functions: general**

**7.** When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) in points 1.1.1 and 1.2, the periods referred to as to be defined or determined by the member State are in each case 2 years,

(b) point 1.1.2(b) is to be read as requiring the SIC code of the process producing the waste to be part of the information referred to,

(c) in point 1.1.2(g), ignore the words "in case of mirror entries",

(d) ignore the third sentence of section 2,

(e) in points 2.1.2.1, 2.2.2, 2.3.1 and 2.4.1 the table columns headed "L/S = 10 l/kg" must be used to determine limit values,

(f) in the table in point 2.1.2.2, the limit value for PAHs (polycyclic aromatic hydrocarbons) is set at 100mg/kg,

(g) in point 2.2.3, the first reference to "gypsum-based materials" is to be read as "gypsum-based and other high sulphate-bearing materials",

(h) in point 2.3.3, the first reference to "suitable asbestos waste" is to be read as "suitable materials", and

(i) in the table in point 2.4.1, the limit values are subject to the qualification that the regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to 3 times higher than those listed for specified wastes accepted at a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

**Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria relating to physical stability and bearing capacity of granular waste**

**8.** When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) in point 2.3.2, the criteria to ensure that granular waste will have sufficient physical stability and bearing capacity are that it has either—

(i) if it is cohesive waste, a mean in situ shear strength of at least 50kPa, or

(ii) if it is non-cohesive waste, an in situ bearing ratio of at least 5%;

(b) point 2.4.2 is to be read as if, in addition to the criteria listed, it requires the satisfaction of the criteria in paragraph (a)(i) and (a)(ii).

**Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria in relating to monolithic waste**

**9.** When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) point 2.3.1 is to be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to stable, non-reactive monolithic hazardous waste and non-hazardous waste which is to be landfilled in the same cell with such waste—

(i) it meets either—

(aa) the limit values for leaching set out in the table in point 2.3.1, or

(bb) the limit values for leaching set out in the following table—

| *Component* | *Symbol* | *mg/m²* |
|---|---|---|
| Arsenic | As | 1.3 |
| Barium | Ba | 45 |
| Cadmium | Cd | 0.2 |
| Total Chromium | $Cr_{total}$ | 5 |
| Copper | Cu | 45 |
| Mercury | Hg | 0.1 |
| Molybdenum | Mo | 7 |
| Nickel | Ni | 6 |
| Lead | Pb | 6 |
| Antimony | Sb | 0.3 |
| Selenium | Se | 0.4 |
| Zinc | Zn | 30 |
| Chloride | $Cl^-$ | 10,000 |
| Fluoride | $F^-$ | 60 |
| Sulphate | $SO_4^{2-}$ | 10,000 |
| Dissolved Organic Carbon | DOC | Must be evaluated |

(ii) it meets the additional criteria set out in the following table—

| *Parameter* | *Value* |
|---|---|
| pH of the eluate from the monolith or crushed monolith | Must be evaluated |
| Electrical conductivity (μ S.cm-1m-2) of the eluate from the monolith or crushed monolith | Must be evaluated |
| Acid Neutralisation Capacity (ANC) of the crushed monolith | Must be evaluated |

(iii) it has a mean unconfined compressive strength of at least 1Mpa after 28 days' curing,

(iv) it has either—

(aa) dimensions of greater than 40cm along each side, or

(bb) a depth and fracture spacing when hardened of greater than 40cm, and

(v) where the waste was subjected to treatment to render it monolithic, prior to such treatment it met the following limit value—

(aa) loss on ignition of 10%, or

(bb) total organic carbon of 6%;

(b) point 2.4.1 in the Decision Annex is to be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to monolithic waste to be accepted at a landfill for hazardous waste—

(i) it complies with paragraphs (a)(ii) to (a)(v), and

(ii) it meets either—

(aa) the limit values for leaching set out in the table in point 2.4.1, or

(bb) the limit values for leaching set out in the following table—

| *Component* | *Symbol* | *mg/m²*[1] |
|---|---|---|
| Arsenic | As | 20 |
| Barium | Ba | 150 |
| Cadmium | Cd | 1 |
| Total Chromium | $Cr_{total}$ | 25 |
| Copper | Cu | 60 |
| Mercury | Hg | 0.4 |
| Molybdenum | Mo | 20 |
| Nickel | Ni | 15 |
| Lead | Pb | 20 |
| Antimony | Sb | 2.5 |
| Selenium | Se | 5 |
| Zinc | Zn | 100 |
| Chloride | $Cl^-$ | 20,000 |
| Fluoride | $F^-$ | 200 |
| Sulphate | $SO_4^{2-}$ | 20,000 |
| Dissolved Organic Carbon | DOC | Must be evaluated |

[1] The regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to 3 times higher for specified wastes accepted in a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

**Closure of a landfill**

**10.**—(1) The regulator must set out any reasoned decision under Article 13(a)(iii) of the Landfill Directive in a closure notice served on the operator.

(2) A closure notice must, in addition to stating the regulator's reasons for requiring initiation of the closure procedure, specify—

(a) the steps the operator is required to take to initiate the procedure, and

(b) the period within which they must be taken.

(3) The regulator may withdraw a closure notice at any time by further notice served on the operator.

(4) Closure of a landfill does not relieve the operator of liability under the conditions of the environmental permit.

**Surrender applications**

**11.** When determining an application for the surrender, in whole or in part, of an environmental permit, the regulator must exercise its functions so as to ensure the operator complies with the requirements in Article 13(d) of the Landfill Directive.

# SCHEDULE 11

Regulation 35(1)

## Waste motor vehicles

### Application

**1.** This Schedule applies in relation to waste motor vehicles.

### Interpretation

**2.**—(1) In this Schedule—

"waste" means waste within the meaning of Article 3(1) of the Waste Framework Directive;

"waste motor vehicle" means a motor vehicle that is waste.

(2) When interpreting the End-of-Life Vehicles Directive for the purposes of this Schedule—

(a) except where otherwise defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) "end-of-life vehicle" means waste motor vehicle;

(c) "vehicle" means any motor vehicle;

(d) "waste" means waste within the meaning of Article 3(1) of the Waste Framework Directive.

### Exercise of relevant functions

**3.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 6(1) and (3) of the End-of-Life Vehicles Directive.

(2) When interpreting the End-of-Life Vehicles Directive for the purposes of this paragraph, "establishment or undertaking" is to be read as "operator".

# SCHEDULE 12

Regulation 35(1)

## Waste electrical and electronic equipment

### Application

**1.** This Schedule applies in relation to WEEE which is within the scope of the WEEE Directive by virtue of Article 2 of that Directive.

### Interpretation

**2.** When interpreting the WEEE Directive for the purposes of this Schedule—

(a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part,

(b) "permit" means environmental permit, and

(c) "waste" means waste within the meaning of Article 3(1) of the Waste Framework Directive.

### Exercise of relevant functions

**3.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with Articles 8(1) to (3) and 9(3) of the WEEE Directive.

(2) But when interpreting the WEEE Directive for the purposes of this paragraph, ignore the following words in Article 9(3)—

(a) "or the registration referred to in paragraphs 1 and 2", and

(b) "and for the achievement of the recovery targets set out in Article 11".

# SCHEDULE 13

Regulation 35(1)

## Waste incineration: Industrial Emissions Directive

### Application

**1.** This Schedule applies in relation to—

(a) every small waste incineration plant, and

(b) every waste incineration plant or waste co-incineration plant,

to which Chapter IV of the Industrial Emissions Directive applies, except those which are operated as a domestic activity in connection with a private dwelling.

### Interpretation

**2.** When interpreting Chapter IV of the Industrial Emissions Directive for the purposes of this Schedule—

(a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is the regulator;

(c) "permit" means environmental permit;

(d) "general binding rule" means a standard rule published under regulation 26.

### Applications for the grant of an environmental permit

**3.** The regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 44 of the Industrial Emissions Directive.

### Exercise of relevant functions

**4.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 5(1) and (3);

(b) Article 7;

(c) Article 8(2);

(d) Article 9;

(e) Article 42(1)

(f) Article 43;

(g) Article 45(1), (2) and (4);

(h) Article 46;

(i) Article 47;

(j) Article 48(1) to (4);

(k) Article 49;

(l) Article 50;

(m) Article 51(1) to (3);

(n) Article 52;

(o) Article 53;

(p) Article 54;

(q) Article 55;

(r) Article 82(5) and (6).

(2) But when interpreting the Industrial Emissions Directive for the purposes of this Schedule—

(a) in Article 51(1) ignore the words "Member states may lay down rules governing these authorisations";

(b) paragraph 2.1(c) of Part 6 of Annex VI is to be read as if the words "and dioxin-like polychlorinated biphenyls and polycyclic aromatic hydrocarbons" appeared after the word "furans", but only in the case of particular plants where the regulator can demonstrate that emissions of those additional substances are, or are likely to be, significant.

# SCHEDULE 14

Regulation 35(1)

## Solvent emission activities

### Application

**1.** This Schedule applies in relation to every solvent emission activity, but it does not apply to installations used solely for research activities, development activities or the testing of new products or processes.

### Interpretation

**2.** When interpreting Chapter V of the Industrial Emissions Directive for the purposes of this Schedule—

(a) except where defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is the regulator;

(c) "installation" means a stationary technical unit within which a solvent emission activity is carried out, and any other directly associated activities on the same site which have a technical connection with the solvent emission activity and which could have an effect on emission of volatile organic compounds;

(d) "permit" means environmental permit;

(e) "general binding rule" means a standard rule published under regulation 26.

### Exercise of relevant functions

**3.** The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 5(1) and (3);

(b) Article 7;

(c) Article 8(2);

(d) Article 9;

(e) Article 57;

(f) Article 58;

(g) Article 59 (except article 59(4));

(h) Article 60;

(i) Article 61;

(j) Article 62;

(k) Article 63;

(l) Article 65;

(m) Article 82(7), (8) and (9).

# SCHEDULE 15

Regulation 35(1)

## Large combustion plants: Industrial Emissions Directive

### Application

**1.** This Schedule applies in relation to every large combustion plant.

### Interpretation

**2.**—(1) In this Schedule—

"combustion plant" has the meaning given in Article 3(25) of the Industrial Emissions Directive;

"large combustion plant" means a combustion plant with a total rated thermal input of 50 or more megawatts to which Chapter III of the Industrial Emissions Directive applies.

(2) When interpreting the Industrial Emissions Directive for the purposes of this Schedule—

(a) except where defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is—

(i) for the purposes of exercising a judgement as to whether there is an overriding need to maintain energy supplies under Articles 30(6) and 37 of the Industrial Emissions Directive, the appropriate authority;

(ii) otherwise, the regulator;

(c) "permit" means environmental permit.

### Exercise of relevant functions

**3.** The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 29;

(b) Article 30(1) to (8), except the second sub-paragraph of Article 30(5) and the last sub-paragraph of Article 30(6);

(c) Article 31(1) and (2);

(d) Article 32(2) and (3);

(e) Article 33 except 33(2);

(f) Article 34(1) and (2);

(g) Article 35(1);

(h) Article 37;

(i) Article 38;

(j) Article 39;

(k) Article 40.

**Interruption in supply of fuel**

**4.** The regulator must—

(a) immediately inform the appropriate authority of any derogation under Article 30(5) of the Industrial Emissions Directive;

(b) immediately inform the appropriate authority if it considers that a derogation in accordance with Articles 30(6) or 37(2) of the Industrial Emissions Directive is or might be appropriate.

# SCHEDULE 16

Regulation 35(1)

## Asbestos

**Application**

**1.** This Schedule applies in relation to every regulated facility.

**Interpretation**

**2.** When interpreting the Asbestos Directive for the purposes of this Schedule—

(a) except where otherwise defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is the regulator;

(c) "waste" has the meaning given in the Asbestos Directive.

**Exercise of relevant functions**

**3.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Asbestos Directive—

(a) Article 3;

(b) Article 4(1);

(c) Article 5;

(d) Article 6(1) and (2);

(e) Article 8.

(2) When interpreting the Asbestos Directive for the purposes of this paragraph, in Article 6(1), "regular intervals" means, for the purposes of a regulated facility to which Article 4 applies, intervals of not more than 6 months.

# SCHEDULE 17

Regulation 35(1)

## Titanium dioxide: Industrial Emissions Directive

**Application**

**1.** This Schedule applies in relation to every installation in which titanium dioxide is produced.

**Interpretation**

**2.** When interpreting Chapter VI of the Industrial Emissions Directive for the purposes of this Schedule—

(a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is the regulator;

(c) "permit" means environmental permit.

**Exercise of relevant functions**

**3.** The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Industrial Emissions Directive—

(a) Article 67;

(b) Article 68;

(c) Article 69;

(d) Article 70.

# SCHEDULE 18

Regulation 35(1)

## Petrol vapour recovery

## PART 1

### PVR I

**Application**

**1.** This Part applies in relation to every Part B activity falling within paragraphs (b) and (c) of Part B of Section 1.2 of Part 2 of Schedule 1.

**Exercise of relevant functions**

**2.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of PVR I—

(a) Article 3(1), first paragraph;

(b) Article 4(1), first and last paragraphs, and 4(3);

(c) Article 6(1), first paragraph.

(2) When interpreting PVR I for the purposes of this paragraph—

(a) in point 1 of Annex I, "special landscape areas which have been designated by national authority" includes the Broads, the New Forest and any National Park or Area of Outstanding Natural Beauty, and

(b) ignore points 2.3, 3.2, and 3.5 of Annex IV.

## PART 2

### PVR II

**Application**

**1.** This Part applies in relation to every Part B activity falling within paragraphs (d) to (f) of Part B of Section 1.2 of Part 2 of Schedule 1.

**Exercise of relevant functions**

**2.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of PVR II—

(a) Article 3;

(b) Article 4;

(c) Article 5.

(2) But when interpreting PVR II for the purposes of this paragraph—

(a) in Articles 3, 4 and 5, ignore the words "member states shall ensure that" where they occur;

(b) in Article 4, ignore the words "with effect from the date on which Stage II petrol vapour recovery systems become mandatory pursuant to Article 3".

# SCHEDULE 19

Regulation 35(1)

## Waste batteries and accumulators

**Application**

**1.** This Schedule applies in relation to waste batteries and accumulators.

**Exercise of relevant functions**

**2.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 12(2) of the Batteries Directive.

(2) The regulator must exercise its relevant functions so as to ensure compliance with Article 3 of Regulation (EU) No 493/2012, and for the purposes of Article 3(4) of that Regulation the regulator is the competent authority.

(3) In sub-paragraph (2), "Regulation (EU) No 493/2012" means Commission Regulation (EU) No 493/2012 laying down, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators(**a**).

# SCHEDULE 20

Regulation 35(1)

## Mining waste operations

**Application**

**1.** This Schedule applies in relation to every mining waste operation.

**Interpretation**

**2.**—(1) In this Schedule—

"fire and rescue authority" means the fire and rescue authority under the Fire and Rescue Services Act 2004(**b**) for the area in which the mining waste facility is located;

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(**a**) OJ No L 151, 12.6.2012, p 9.

(**b**) 2004. c. 21; section 1 was amended by paragraph 10(1) and (2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36).

"mining waste facility" means a "waste facility" as defined in Article 3(15) of the Mining Waste Directive but excludes those facilities mentioned in Article 24(2) or in the first paragraph of Article 24(4) of that Directive;

"mining waste operation" means the management of extractive waste, whether or not involving a mining waste facility, but does not include the activities in Article 2(2)(c) of the Mining Waste Directive;

"waste management plan" means a plan of the type described in Article 5(1) of the Mining Waste Directive which has the objectives in Article 5(2) and contains the elements and information set out in Article 5(3) of that Directive.

(2) When interpreting the Mining Waste Directive for the purposes of this Schedule—

(a) except where otherwise defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part,

(b) "permit" means an environmental permit, and

(c) the competent authority is the regulator.

**Applications for grant or variation of an environmental permit**

**3.**—(1) The regulator must require that every application for the grant or variation of an environmental permit in relation to a mining waste operation involving a mining waste facility to which Article 7 of the Mining Waste Directive applies includes—

(a) the information specified in Article 7(2) of that Directive, and

(b) where Article 6 of the Directive applies, the information mentioned in the second sentence of the third paragraph of Article 6(3).

(2) Where the regulator receives an application for the grant or variation of an environmental permit and that application includes the information required under sub-paragraph (1)(b), the regulator must immediately forward the information to the fire and rescue authority.

(3) The regulator must require that every application for the grant or variation of an environmental permit in relation to any other mining waste operation includes a waste management plan.

(4) For the purposes of this paragraph, the regulator may accept a waste management plan produced pursuant to other legislation which complies with Article 5(1) to (4) of the Mining Waste Directive if it has been reviewed and amended in accordance with Article 5(4) of that Directive.

**Review of environmental permits**

**4.** The regulator must periodically review an environmental permit relating to a mining waste facility if Article 7 of the Mining Waste Directive applies in respect of that facility and any of the circumstances in Article 7(4) of the Directive apply in relation to it.

**Classification of mining waste facilities**

**5.** The regulator must exercise its functions so as to ensure compliance with Article 9 of the Mining Waste Directive in respect of any mining waste facility to which Article 7 of that Directive does not apply.

**Inspections**

**6.** The regulator must inspect every mining waste facility to which Article 7 of the Mining Waste Directive applies so as to comply with the requirements of Article 17(1) of that Directive.

**Exercise of relevant functions**

**7.** The regulator must exercise its relevant functions so as to ensure compliance with the following requirements of the Mining Waste Directive—

(a) Article 2(4);

(b) Article 4;

(c) Article 5(4) and (6);

(d) Article 6(2), the first and second paragraphs of Article 6(3), the first paragraph of Article 6(4) to the extent that it relates to plans prepared under the first paragraph of Article 6(3) and the second paragraph of Article 6(4) to the extent that it relates to the regulator's functions;

(e) Article 7(1) and (3)(a);

(f) Article 10;

(g) Article 11;

(h) Article 12;

(i) Article 13;

(j) Article 14(1) to (3);

(k) Article 17(2);

(l) Article 24(1).

**Public participation**

**8.** The regulator must exercise its functions under the public participation provisions in relation to mining waste facilities to which Article 7 of the Mining Waste Directive applies so as to meet the requirements of Article 8 of that Directive.

**Derogation from requirements**

**9.**—(1) The regulator must exercise its functions to ensure that the requirements mentioned in the first paragraph of Article 2(3) of the Mining Waste Directive do not apply to the substances mentioned in that paragraph where they result from an operation mentioned in that paragraph, to the extent allowed by that paragraph.

(2) The regulator must waive the requirements of the Mining Waste Directive in relation to the deposit of the substances mentioned in the second paragraph of Article 2(3) of that Directive if the regulator is satisfied that the requirements of Article 4 of that Directive are met.

(3) The regulator must waive the requirements mentioned in the third paragraph of Article 2(3) of the Mining Waste Directive in relation to the waste mentioned in that paragraph to the extent allowed by that paragraph.

**Closure of a mining waste facility**

**10.**—(1) The regulator must set out any reasoned decision under Article 12(2)(c) of the Mining Waste Directive in a closure notice served on the operator.

(2) A closure notice must, in addition to stating the regulator's reasons for requiring initiation of the closure procedure, specify—

(a) the steps the operator is required to take to initiate the procedure, and

(b) the period within which they must be taken.

(3) The regulator may withdraw a closure notice at any time by further notice served on the operator.

(4) Closure of a mining waste facility does not relieve the operator of liability under the environmental permit conditions that relate to the facility.

(5) The regulator must exercise its functions so as to ensure compliance with Article 14(4) of the Mining Waste Directive.

**Inventory of closed mining waste facilities**

**11.** The regulator must maintain and make available to the public an inventory of closed mining waste facilities so as to ensure compliance with Article 20 of the Mining Waste Directive.

**Developments in best available techniques**

**12.**—(1) The regulator must ensure that it is informed of developments in best available techniques.

(2) In this paragraph, "best available techniques" has the meaning given in Article 3(10) of the Industrial Emissions Directive.

**Planning permission conditions**

**13.**—(1) Where—

(a) a mining waste operation is the subject of an environmental permit,

(b) that operation has been granted planning permission subject to conditions ("planning conditions"), and

(c) there is an inconsistency between the environmental permit conditions and the planning conditions,

the environmental permit conditions prevail.

(2) In this paragraph, "planning permission" means planning permission under the Town and Country Planning Act 1990(**a**) and includes—

(a) a certificate under section 191 of that Act(**b**), and

(b) an established use certificate under section 192 of that Act(**c**), as originally enacted, which continues to have effect for the purposes of subsection (4) of that section.

**Applications for grant or variation of an environmental permit for a Category A mining waste facility**

**14.**—(1) The regulator must not grant an application for the grant or variation of an environmental permit relating to a Category A mining waste facility until it has been notified by the fire and rescue authority that it has the information necessary to enable it to draw up an external emergency plan.

(2) The regulator must refuse an application relating to a Category A mining waste facility that is an existing mining waste facility upon receipt of a notice by the fire and rescue authority stating that the operator has not provided the information necessary to enable the fire and rescue authority to draw up an external emergency plan.

(3) In this paragraph, "external emergency plan" means a plan as required under the third paragraph of Article 6(3) of the Mining Waste Directive that has the objectives specified in the first paragraph of Article 6(4) of that Directive.

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(**a**) 1990 c. 8.

(**b**) Section 191 was substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34) and amended by section 124(3) of the Localism Act 2011 (c. 20) and paragraph 6(1) and (3) of Schedule 4 to the Mobile Homes (Wales) Act 2013 (anaw. 6).

(**c**) Section 192 was substituted by section 10(1) of the Planning and Compensation Act 1991.

# SCHEDULE 21

Regulation 35(1)

## Water discharge activities

### Application

**1.** This Schedule applies in relation to every water discharge activity.

### Interpretation

**2.** In this Schedule—

"discharging sewer" means the sewer or works from which sewage effluent is discharged;

"discharging undertaker" means the sewerage undertaker in which a discharging sewer is vested;

"main connection" has the same meaning as in section 110A of the Water Industry Act 1991(**a**);

"pipe" has the same meaning as in the 1991 Act;

"sending undertaker" means a sewerage undertaker which discharges sewage effluent into the discharging sewer or other sewer or works vested in the discharging undertaker;

"waste" in the term "waste matter" includes—

(a) anything that is waste for the purposes of the Waste Framework Directive and is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;

(b) anything that is waste for the purposes of the Mining Waste Directive and is not excluded from the scope of that Directive by Article 2(2) of that Directive.

### Meaning of "water discharge activity"

**3.**—(1) A "water discharge activity" means any of the following—

(a) the discharge or entry to inland freshwaters, coastal waters or relevant territorial waters of any—

(i) poisonous, noxious or polluting matter,

(ii) waste matter, or

(iii) trade effluent or sewage effluent;

(b) the discharge from land through a pipe into the sea outside the seaward limits of relevant territorial waters of any trade effluent or sewage effluent;

(c) the removal from any part of the bottom, channel or bed of any inland freshwaters of a deposit accumulated by reason of any dam, weir or sluice holding back the waters, by causing it to be carried away in suspension in the waters, unless the activity is carried on in the exercise of a power conferred by or under any enactment relating to land drainage, flood prevention or navigation;

(d) the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them, where it is not reasonable to take steps to remove the vegetation from these waters;

(e) an activity in respect of which a notice under paragraph 4 or 5 has been served and has taken effect.

(2) A discharge or an activity that might lead to a discharge is not a "water discharge activity"—

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(**a**) 1991 c. 56; section 110A was inserted by section 45 of the Competition and Service (Utilities) Act 1992 (c. 43) and amended by section 36(2) of the Water Act 2003 (c. 37) and by S.I. 2013/755 (W. 90). It is prospectively substituted by section 9(1) of the Water Act 2014 (c. 21) from a date to be appointed.

(a) if the discharge is made, or authorised to be made, by or under any prescribed statutory provision, or

(b) if the discharge is of trade effluent or sewage effluent from a vessel.

(3) In determining whether a discharge or an activity is a water discharge activity, no account must be taken of any radioactivity possessed by any substance or article or by any part of any premises.

**Highway drains – notice requiring environmental permit**

**4.**—(1) This paragraph applies where—

(a) a person is operating a highway drain, and

(b) that activity might lead to a discharge mentioned in paragraph 3(1)(a) or (b).

(2) The regulator may serve a notice on the person operating the highway drain requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of that activity.

(3) A notice under this paragraph takes effect on the date specified in it, which must be at least 6 months after it is served.

**Discharge of trade effluent or sewage effluent into lake or pond – notice requiring environmental permit**

**5.**—(1) The regulator may serve a notice on a person who discharges trade effluent or sewage effluent into the waters of any lake or pond which are not inland freshwaters requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of that activity.

(2) A notice under this paragraph takes effect on the date specified in it, which must be at least 3 months after it is served.

**Liability resulting from discharge of sewage effluent from public sewer**

**6.**—(1) This paragraph applies for the purpose of determining liability for a water discharge activity that consists of a discharge of sewage effluent from a discharging sewer vested in a discharging undertaker.

(2) A discharging undertaker causes a discharge of sewage effluent if—

(a) matter included in the discharge is received by the discharging undertaker into the discharging sewer or into any other sewer or works vested in it,

(b) the discharging undertaker was bound (either unconditionally or subject to conditions which were observed) to receive the matter into the discharging sewer or other sewer or works, and

(c) sub-paragraph (3) does not apply.

(3) This sub-paragraph applies if, before the discharging undertaker discharges the sewage effluent from the discharging sewer, the sending undertaker, under an agreement with the discharging undertaker under section 110A of the Water Industry Act 1991, discharges the sewage effluent through a main connection into—

(a) the discharging sewer, or

(b) any other sewer or works vested in the discharging undertaker.

(4) If sub-paragraph (3) applies, the sending undertaker causes the discharge if—

(a) matter included in the discharge is received by the sending undertaker into a sewer or works vested in it, and

(b) it was bound (either conditionally or subject to conditions which were observed) to receive that matter into that sewer or works.

(5) A sewerage undertaker is not guilty of an offence under regulation 38(1) in relation to a water discharge activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

(a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works,

(b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed, and

(c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

(6) A person is not guilty of an offence under regulation 38(1) in relation to a discharge which the person caused or knowingly permitted to be made into a sewer or works vested in a sewerage undertaker if that undertaker was bound to receive the discharge, either unconditionally or subject to conditions which were observed.

# SCHEDULE 22

Regulation 35(1)

## Groundwater activities

### Application

**1.** This Schedule applies in relation to every groundwater activity.

### Interpretation

**2.** In this Schedule—

"body of groundwater" has the same meaning as in the Water Framework Directive;

"direct input" in relation to groundwater means the introduction of a pollutant to groundwater without percolation through soil or subsoil;

"indirect input" in relation to groundwater means the introduction of a pollutant to groundwater after percolation through soil or subsoil;

"surface waters" has the same meaning as in the Water Framework Directive.

### Meaning of "groundwater activity"

**3.**—(1) Subject to sub-paragraphs (2) and (3), "groundwater activity" means any of the following—

(a) the discharge of a pollutant that results in the direct input of that pollutant to groundwater;

(b) the discharge of a pollutant in circumstances that might lead to an indirect input of that pollutant to groundwater;

(c) any other discharge that might lead to the direct or indirect input of a pollutant to groundwater;

(d) an activity in respect of which a notice under paragraph 10 has been served and has taken effect;

(e) an activity that might lead to a discharge mentioned in paragraph (a), (b) or (c), where that activity is carried on as part of the operation of a regulated facility of another class.

(2) A discharge or an activity that might lead to a discharge is not a "groundwater activity" if the discharge is—

(a) made, or authorised to be made, by or under any prescribed statutory provision, or

(b) of trade effluent or sewage effluent from a vessel.

(3) The regulator may determine that a discharge, or an activity that might lead to a discharge, is not a groundwater activity if the input of the pollutant—

(a) is the consequence of an accident or exceptional circumstances of natural cause that could not reasonably have been foreseen, avoided or mitigated,

(b) is or would be of a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater, or

(c) is or would be incapable, for technical reasons, of being prevented or limited without using—

(i) measures that would increase risks to human health or to the quality of the environment as a whole, or

(ii) disproportionately costly measures to remove quantities of pollutants from, or otherwise control their percolation in, contaminated ground or subsoil.

(4) The regulator must keep a record of all determinations under sub-paragraph (3).

**Meaning of "hazardous substance"**

**4.**—(1) A hazardous substance is any substance or group of substances that are toxic, persistent and liable to bio-accumulate, or that give rise to an equivalent level of concern.

(2) This includes in particular the following when they meet the criteria in sub-paragraph (1)—

(a) organohalogen compounds and substances which may form such compounds in the aquatic environment;

(b) organophosphorous compounds;

(c) organotin compounds;

(d) substances and preparations, or the breakdown products of such, which have been proved to possess carcinogenic or mutagenic properties or properties which may affect steroidogenic, thyroid, reproduction or other endocrine-related functions in or via the aquatic environment;

(e) hydrocarbons and organic substances;

(f) cyanides;

(g) metals (in particular, cadmium and mercury) and their compounds;

(h) arsenic and its compounds;

(i) biocides and plant protection products.

(3) The regulator must publish a list of substances that it considers to be hazardous substances.

**Meaning of "non-hazardous pollutant"**

**5.** A non-hazardous pollutant is any pollutant other than a hazardous substance.

**Exercise of relevant functions**

**6.** For the purposes of implementing the Water Framework Directive and the Groundwater Directive, the regulator must, in exercising its relevant functions, take all necessary measures—

(a) to prevent the input of any hazardous substance to groundwater, and

(b) to limit the input of non-hazardous pollutants to groundwater so as to ensure that such inputs do not cause pollution of groundwater.

**Applications for grant of environmental permit**

**7.**—(1) This paragraph applies to an application for the grant of an environmental permit relating to—

(a) a discharge mentioned in paragraph 3(1)(a), (b) or (c), or

(b) an activity that might lead to such a discharge.

(2) When the regulator receives an application, it must ensure that all necessary investigations have been carried out to ensure that it grants any permit in accordance with paragraph 6.

(3) If it grants the permit, it must include conditions requiring all necessary technical precautions to be observed to ensure the objectives of paragraph 6 are achieved.

(4) A permit may not be granted—

(a) without examination of—

(i) the hydrogeological conditions of the area concerned,

(ii) the possible purifying powers of the soil and subsoil, and

(iii) the risk of pollution and alteration of the quality of the groundwater from the discharge, and

(b) without establishing whether the input of pollutants to groundwater is a satisfactory solution from the point of view of the environment.

(5) A permit may only be granted if the regulator has checked that the groundwater (and, in particular, its quality) will undergo the requisite surveillance.

**Groundwater activities for which a permit may be granted**

**8.** Despite paragraph 6, provided it does not compromise the achievement of any of the environmental objectives relating to groundwater in Article 4 of the Water Framework Directive, the regulator may grant an environmental permit for—

(a) the injection of water containing substances resulting from the operations for exploration and extraction of hydrocarbons or mining activities, and injection of water for technical reasons, into geological formations from which hydrocarbons or other substances have been extracted or into geological formations which for natural reasons are permanently unsuitable for other purposes, provided that the injection does not contain substances other than those resulting from the above operations;

(b) the reinjection of pumped groundwater from mines and quarries or associated with the construction or maintenance of civil engineering works;

(c) the injection of natural gas or liquefied petroleum gas for storage purposes into geological formations which for natural reasons are permanently unsuitable for other purposes;

(d) the injection of carbon dioxide streams for storage purposes into geological formations which for natural reasons are permanently unsuitable for other purposes, provided that such injection is made in accordance with Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide(**a**), or excluded from the scope of that Directive pursuant to Article 2(2) of that Directive;

(e) the injection of natural gas or liquefied petroleum gas for storage purposes into other geological formations where there is an overriding need for security of gas supply, and where the injection is such as to prevent any present or future danger of deterioration in the quality of any receiving groundwater;

(f) construction, civil engineering and building works and similar activities on or in the ground which come into contact with groundwater;

(g) discharges of small quantities of substances for scientific purposes for characterisation, protection or remediation of bodies of water limited to the amount strictly necessary for the purposes concerned;

(h) interventions in surface waters for the purposes, amongst others, of mitigating the effects of floods and droughts, and for the management of waters and waterways;

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(**a**) OJ No L 140, 5.6.2009, p 114, as last amended by Directive 2011/92/EU (OJ No L 26, 28.1.2012, p 1).

(i) the artificial recharge or augmentation of a body of groundwater for the purposes of groundwater management;

(j) reinjection into the same aquifer of water used for geothermal purposes.

**Prohibition notice**

**9.**—(1) This paragraph applies where—

(a) any person is carrying on, or proposing to carry on, any activity on or in the ground, and

(b) that activity might lead to a discharge mentioned in paragraph 3(1)(a), (b) or (c).

(2) The regulator may serve a notice on the person prohibiting the carrying on of the activity.

(3) The regulator may withdraw a prohibition notice at any time by further notice served on the person.

**Notice requiring environmental permit**

**10.**—(1) This paragraph applies where—

(a) any person is carrying on, or proposing to carry on, any activity on or in the ground, and

(b) that activity might lead to a discharge mentioned in paragraph 3(1)(a), (b) or (c).

(2) The regulator may serve a notice on the person requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of the activity.

(3) A notice under sub-paragraph (2) takes effect on the date specified in it, but—

(a) a notice served for the purpose of paragraph 11 must not take effect until at least 6 months after it is served, and

(b) a notice served for the purpose of paragraph 12, or for any other purpose, must not take effect until at least 3 months after it is served.

**Notice in relation to a highway drain**

**11.** A highway authority or other person entitled to keep open a highway drain by virtue of section 100 of the 1980 Act(**a**) who operates a highway drain other than under and in accordance with an environmental permit is not guilty of an offence under regulation 38(1) unless—

(a) the regulator has served a notice on that person under paragraph 10 of this Schedule, and

(b) the notice has taken effect.

**Guidance**

**12.**—(1) The appropriate authority may issue guidance to persons causing or liable to cause inputs of pollutants to groundwater with respect to the steps they must take to prevent or limit those pollutants from entering groundwater.

(2) The regulator must take into account whether or not such guidance is or is likely to be complied with before taking any enforcement action under these Regulations.

(3) Guidance must be publicised as the appropriate authority sees fit.

**Liability resulting from discharge of sewage effluent from public sewer**

**13.**—(1) This paragraph applies for the purpose of determining liability for a groundwater activity that consists of a discharge of sewage effluent from a discharging sewer vested in a discharging undertaker.

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(**a**) 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).

(2) A discharging undertaker causes a discharge of sewage effluent if—

(a) matter included in the discharge is received by the discharging undertaker into the discharging sewer or into any other sewer or works vested in it,

(b) the discharging undertaker was bound (either unconditionally or subject to conditions which were observed) to receive the matter into the discharging sewer or other sewer or works, and

(c) sub-paragraph (3) does not apply.

(3) This sub-paragraph applies if, before the discharging undertaker discharges the sewage effluent from the discharging sewer, the sending undertaker, under an agreement with the discharging undertaker under section 110A of the Water Industry Act 1991(**a**), discharges the sewage effluent through a main connection into—

(a) the discharging sewer, or

(b) any other sewer or works vested in the discharging undertaker.

(4) If sub-paragraph (3) applies, the sending undertaker causes the discharge if—

(a) matter included in the discharge was received by the sending undertaker into a sewer or works vested in it, and

(b) it was bound (either conditionally or subject to conditions which were observed) to receive that matter into that sewer or works.

(5) A sewerage undertaker is not guilty of an offence under regulation 38(1) in relation to a groundwater activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

(a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works,

(b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed, and

(c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

(6) A person is not guilty of an offence under regulation 38(1) in relation to a discharge which the person caused or knowingly permitted to be made into a sewer or works vested in a sewerage undertaker if that undertaker was bound to receive the discharge, either unconditionally or subject to conditions which were observed.

# SCHEDULE 23

Regulation 35(1)

## Radioactive substances activities

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# PART 1

## Application

**Application**

**1.** This Schedule applies in relation to every radioactive substances activity.

# PART 2

## Interpretation

**Interpretation**

**1.**—(1) In this Schedule—

"article" includes a part of an article;

"Bq" means becquerels;

"contamination" occurs where a substance or article is so affected by—

(a) absorption, admixture or adhesion of radioactive material or radioactive waste, or

(b) the emission of neutrons or ionising radiation,

as to become radioactive or to possess increased radioactivity;

"disposal" in relation to waste includes its removal, deposit, destruction, discharge (whether into water or into the air or into a sewer or drain or otherwise) or burial (whether underground or otherwise) and "dispose of" is to be construed accordingly;

"m", where it appears after a radionuclide, means a radionuclide in a metastable state of radioactive decay in which gamma photons are emitted;

"mobile radioactive apparatus" means any apparatus, equipment, appliance or other thing which is radioactive material and—

(a) is constructed or adapted for being transported from place to place, or

(b) is portable and designed or intended to be used for releasing radioactive material into the environment or introducing it into organisms;

"nuclear site" means—

(a) any site in respect of which a nuclear site licence is for the time being in force, or

(b) any site in respect of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not yet come to an end,

and "licensee", when used in relation to a nuclear site, and "period of responsibility" have the same meaning as in the Nuclear Installations Act 1965(**a**);

"premises" includes any land, whether covered by buildings or not, including any place underground and any land covered by water;

"relevant liquid" means a liquid which—

(a) is non-aqueous, or

(b) is classified (or would be so classified in the absence of its radioactivity) under Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures(**b**) as having any of the following hazard classes and hazard categories (as defined in that Regulation)—

(i) acute toxicity: categories 1, 2 or 3,

(ii) skin corrosion/irritation: category 1 corrosive, sub-categories: 1A, 1B or 1C, or

(iii) hazardous to the aquatic environment: acute category 1 or chronic categories 1 or 2;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

"Table 1", "Table 2", "Table 3" mean the tables with those numbers in Part 3 of this Schedule;

"undertaking" includes any trade, business or profession and—

(a) in relation to a public or local authority, includes any of the powers or duties of that authority;

(b) in relation to any other body of persons (whether corporate or unincorporate), includes any of the activities of that body;

"waste" should be construed in accordance with paragraph 3(2).

(2) In this Schedule, where any reference is made to a substance or article possessing a concentration or quantity of radioactivity which exceeds the value specified in a column in either of Tables 1 and 2, or either of Tables 5 and 7 in Part 6 of this Schedule, that value is exceeded if—

(a) where only one radionuclide which is listed or described in the relevant table is present in the substance or article, the concentration or quantity of that radionuclide exceeds the concentration or quantity specified in the appropriate entry of that column in that table, or

(b) where more than one radionuclide which is listed or described in the relevant table is present, the sum of the quotient values of all such radionuclides in the substance or article, as determined by the summation rule following the table (as it applies to that column), is greater than one,

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(**a**) 1965 c. 57; the definition of "period of responsibility" was substituted by paragraph 20 of Part 2 of Schedule 12 to the Energy Act 2013 (c. 32).

(**b**) OJ No L 353, 31.12.2008, p 1, as last amended by Commission Regulation (EU) No 1297/2014 (OJ No L 350, 6.12.2014, p 1).

and any reference to a concentration or quantity of radioactivity not exceeding such a value shall be construed accordingly.

**Interpretation: NORM industrial activity**

**2.**—(1) Subject to sub-paragraph (2), in this Schedule—

"type 1 NORM industrial activity" means—

(a) the production and use of thorium, or thorium compounds, and the production of products where thorium is deliberately added, or

(b) the production and use of uranium or uranium compounds, and the production of products where uranium is deliberately added;

"type 2 NORM industrial activity" means—

(a) the extraction and production of rare earth elements and rare earth element alloys,

(b) the mining and processing of ores other than uranium ore,

(c) the production of oil and gas,

(d) the removal and management of radioactive scales and precipitates from equipment associated with industrial activities,

(e) any industrial activity utilising phosphate ore,

(f) the manufacture of titanium dioxide pigments,

(g) the extraction and refining of zircon and manufacture of zirconium compounds,

(h) the production of tin, copper, aluminium, zinc, lead and iron and steel,

(i) any activity related to coal mine de-watering plants,

(j) china clay extraction,

(k) water treatment associated with provision of drinking water, or

(l) the remediation of contamination from any type 1 NORM industrial activity or any of the activities listed above.

(2) An activity which involves the processing of radionuclides of natural terrestrial or cosmic origin for their radioactive, fissile or fertile properties is not a type 1 NORM industrial activity or a type 2 NORM industrial activity.

**Interpretation: "radioactive material", "radioactive waste" and "waste"**

**3.**—(1) In this Schedule, except as provided by paragraph 7, 8, 9 or 10—

"radioactive material" means a substance or article which is not waste, and which satisfies the requirements of paragraph 4, 5 or 6 as they apply to such a substance or article;

"radioactive waste" means a substance or article which is waste, and which satisfies the requirements of paragraph 4, 5 or 6.

(2) In this Schedule—

(a) "waste" includes—

(i) any substance which constitutes scrap material or an effluent or other unwanted surplus substance arising from the application of any process, and

(ii) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoilt, and

(b) any substance or article which, in the course of carrying on any undertaking, is discharged, discarded or otherwise dealt with as if it were waste is presumed to be waste unless the contrary is proved.

**NORM industrial activities**

**4.**—(1) Sub-paragraph (2) applies to a substance or article which—

(a) arises from or is used in a type 1 NORM industrial activity,

(b) is waste which arises from a type 2 NORM industrial activity, or

(c) is contaminated by a substance or article described in paragraph (a) or (b), including where such contamination occurs indirectly through another contaminated substance or article.

(2) A substance or article to which this sub-paragraph applies is radioactive material or radioactive waste where it has a concentration of radioactivity which exceeds the following values in Table 1—

(a) for a substance or article which is a solid or a substance which is a relevant liquid, the value specified in column 2,

(b) for a substance which is any other liquid, the value specified in column 3, or

(c) for a substance which is a gas, the value specified in column 4.

**Processed radionuclides of natural terrestrial or cosmic origin**

**5.** A substance or article is radioactive material or radioactive waste where—

(a) the substance or article contains one or more of the radionuclides of natural terrestrial or cosmic origin which are listed in column 1 of Table 2,

(b) the substance or article—

(i) is processed or is intended to be processed for the radioactive, fissile or fertile properties of those radionuclides, or

(ii) is contaminated by a substance or article to which paragraph (i) applies, including where such contamination occurs indirectly through another contaminated substance or article, and

(c) the substance or article is—

(i) a solid or a relevant liquid and it has a concentration of radioactivity which exceeds the value specified in column 2 of Table 2, or

(ii) any other liquid or a gas.

**Radionuclides not of natural terrestrial or cosmic origin**

**6.** A substance or article which contains one or more radionuclides that are not of natural terrestrial or cosmic origin is radioactive material or radioactive waste where—

(a) the substance or article is a solid or a relevant liquid and it has a concentration of radioactivity which exceeds the value specified in column 2 of Table 2, or

(b) the substance is any other liquid or a gas.

**Radionuclides with a short half-life**

**7.** A substance or article is not radioactive material or radioactive waste where none of the radionuclides which it contains or which it consists of has a half-life exceeding 100 seconds.

**Radionuclides not of natural terrestrial or cosmic origin in background radioactivity**

**8.**—(1) A substance or article is not radioactive material or radioactive waste where—

(a) the substance or article is contaminated as a result of a climatic process, or a combination of such processes, by radionuclides which—

(i) are not of natural terrestrial or cosmic origin, and

(ii) are not present in the substance or article at a concentration that exceeds that found normally in such a substance or article in the United Kingdom, and

(b) in the absence of such contamination, the substance or article would not otherwise be radioactive material or radioactive waste under this Schedule.

(2) In this paragraph, a "climatic process" includes wind, precipitation and the general circulation of the atmosphere and oceans.

**Contaminated substances or articles**

**9.**—(1) Subject to sub-paragraph (2), a substance or article is not radioactive material where—

(a) the substance or article is contaminated, but has not been so contaminated with the intention of utilising its radioactive, fissile or fertile properties, and

(b) in the absence of such contamination, the substance or article would not otherwise be radioactive material under this Schedule.

(2) Sub-paragraph (1) only applies while the substance or article is kept on the premises on which the contamination occurred.

**Substances or articles after disposal**

**10.**—(1) A substance or article is not radioactive material or radioactive waste during the excluded period where—

(a) the substance or article has been disposed of lawfully, and at the time of the disposal no further act of disposal is intended in respect of it, or

(b) the substance or article—

(i) is contaminated by a substance or article to which paragraph (a) applies, including where such contamination occurs indirectly through another contaminated substance or article,

(ii) in the absence of such contamination, would not otherwise be radioactive material or radioactive waste under this Schedule, and

(iii) is not contaminated with the intention of using its radioactive, fissile or fertile properties.

(2) In sub-paragraph (1), "the excluded period" means the period—

(a) beginning at the relevant start time, and

(b) ending at the time that there is an increase in the radiation exposure of the public or of any plant or animal which is caused by the substance or article being subject to a process after the relevant start time.

(3) Sub-paragraph (4) applies to a substance or article which—

(a) is disposed of by burial (whether underground or otherwise) on premises in respect of which an environmental permit in respect of the radioactive substances activity in paragraph 11(2)(b) is held at the time of disposal,

(b) is disposed of in accordance with that permit, and

(c) is solid at the time of the disposal.

(4) Where this sub-paragraph applies, the relevant start time is—

(a) where the environmental permit in sub-paragraph (3)(a) is surrendered, the time at which the surrender takes effect, or

(b) where that permit is revoked and—

(i) regulation 23 applies to that permit, the time at which the regulator issues the certificate described in paragraph (4) or (6) of that regulation, or

(ii) regulation 23 does not apply to that permit, the time at which the revocation takes effect.

(5) Sub-paragraph (6) applies to a substance or article ("A") described in sub-paragraph (1)(b), where the substance or article ("B") which contaminates it (directly or indirectly) is described in sub-paragraph (3).

(6) Where this sub-paragraph applies, the relevant start time for A is the later of—

(a) the time at which A becomes contaminated, and

(b) the relevant start time for B.

(7) In respect of a substance or article ("C") to which sub-paragraphs (4) and (6) do not apply, the relevant start time is—

(a) where sub-paragraph (1)(a) applies to C, the time at which C is disposed of;

(b) where sub-paragraph (1)(b) applies to C, the time at which C becomes contaminated.

**Interpretation: radioactive substances activity**

**11.**—(1) Subject to paragraphs 13 and 14, "radioactive substances activity" means an activity described in sub-paragraph (2), (4), (5) or (6).

(2) A radioactive substances activity is carried on where a person uses premises for the purposes of an undertaking and that person—

(a) except where sub-paragraph (5) applies, keeps or uses radioactive material on those premises,

(b) disposes of radioactive waste on or from those premises, or

(c) accumulates radioactive waste on those premises,

knowing or having reasonable grounds for believing the material or waste to be radioactive material or radioactive waste.

(3) For the purposes of sub-paragraph (2)(c), where—

(a) radioactive material is produced, kept or used on any premises,

(b) any substance arising from the production, keeping or use of that material is accumulated in a part of the premises appropriated for the purpose, and

(c) that substance is retained there for a period of not less than 3 months,

that substance, unless the contrary is proved, is presumed to be radioactive waste.

(4) A radioactive substances activity is carried on where, in the course of a person carrying on an undertaking, that person—

(a) receives radioactive waste for the purposes of disposing of that waste, and

(b) knows or has reasonable grounds for believing the waste to be radioactive waste.

(5) A radioactive substances activity is carried on where a person keeps or uses mobile radioactive apparatus for—

(a) testing, measuring or otherwise investigating any of the characteristics of substances or articles, or

(b) releasing quantities of radioactive material into the environment or introducing such material into organisms.

(6) A radioactive substances activity is carried on where a person carries out intrusive investigation work or other excavation, construction or building work—

(a) to determine the suitability of any premises, or

(b) to enable the use of any premises,

as a place that may be used wholly or substantially for underground disposal.

(7) In sub-paragraph (6)—

"intrusive investigation work" means the drilling of boreholes into, or excavation of, sub-soil or rock to determine geological or hydrogeological conditions;

"underground disposal" means—

(a) the disposal of solid radioactive waste in an engineered facility, or in part of an engineered facility, which is beneath the surface of the ground, and

(b) where the natural environment which surrounds the facility acts, in combination with any engineered measures, to inhibit the transit of radionuclides from the facility to the surface,

and does not include the disposal of radioactive waste in a facility which is beneath the surface of the ground only by virtue of the placing of rocks or soil above it.

**Discharge of functions: mobile radioactive apparatus**

**12.**—(1) In the case of an activity described in paragraph 11(5), if the principal place where the apparatus mentioned in that sub-paragraph is kept when not in use is in England or Wales, functions in relation to the activity are exercisable by the appropriate agency in whose area the principal place of keeping is.

(2) But sub-paragraph (1) does not apply to functions under regulations 36, 37, 38 and 42 (which are exercisable in relation to the activity in accordance with regulation 32(1)).

**Nuclear sites**

**13.**—(1) Paragraph 11(2)(a) does not apply to the activity carried on by a licensee of a nuclear site on any premises situated on that site at any time—

(a) while a nuclear site licence is in force in respect of that site, and

(b) after the revocation or surrender of such a licence but before the period of responsibility of the licensee has come to an end.

(2) In respect of any premises which—

(a) are situated on a nuclear site, but

(b) have ceased to be used for the purposes of an undertaking carried on by the licensee,

paragraph 11(2)(b) applies to those premises as if the premises were used for the purposes of an undertaking carried on by the licensee.

(3) Paragraph 11(2)(c) does not apply to the accumulation of radioactive waste on any premises situated on a nuclear site.

**Vehicles, vessels and aircraft**

**14.** In determining whether any radioactive material is kept or used on any premises, no account must be taken of any radioactive material kept or used in or on any railway vehicle, road vehicle, vessel or aircraft if—

(a) the vehicle, vessel or aircraft is on the premises in the course of a journey, or

(b) in the case of a vessel which is on those premises otherwise than in the normal course of a journey, the material is used in propelling the vessel or is kept in or on the vessel for use in propelling it.

# PART 3

## Tables of radionuclides and summation rules

**Table 1**

**1.**—(1) The Table 1 referred to in paragraph 4 of Part 2 (NORM industrial activities) is—

**Table 1**

**Concentration of radionuclides: NORM industrial activities**

| *Radionuclide* | *Solid or relevant liquid concentration in becquerels per gram (Bq/g)* | *Any other liquid concentration in becquerels per litre (Bq/l)* | *Gaseous concentration in becquerels per cubic metre (Bq/m$^3$)* |
|---|---|---|---|
| U-238sec(**a**) | 0.5 | 0.1 | 0.001 |
| U-238+ | 5 | 10 | 0.01 |
| U-234 | 5 | 10 | 0.01 |
| Th-230 | 10 | 10 | 0.001 |
| Ra-226+ | 0.5 | 1 | 0.01 |
| Pb-210+ | 5 | 0.1 | 0.01 |
| Po-210 | 5 | 0.1 | 0.01 |
| U-235sec | 1 | 0.1 | 0.0001 |
| U-235+ | 5 | 10 | 0.01 |
| Pa-231 | 5 | 1 | 0.001 |
| Ac-227+ | 1 | 0.1 | 0.001 |
| Th-232sec | 0.5 | 0.1 | 0.001 |
| Th-232 | 5 | 10 | 0.001 |
| Ra-228+ | 1 | 0.1 | 0.01 |
| Th-228+ | 0.5 | 1 | 0.001 |

(2) The Table 1 summation rule in respect of column 2, 3 or 4 means the sum of the quotients A/B where—

(a) "A" means the concentration of each radionuclide listed in column 1 of Table 1 that is present in the substance or article, and

(b) "B" means the concentration of that radionuclide specified in column 2, 3 or 4 (as appropriate) of Table 1.

**Table 2**

**2.**—(1) The Table 2 referred to in paragraph 5 of Part 2 (processed radionuclides of natural terrestrial or cosmic origin) and paragraph 6 of that Part (radionuclides not of natural terrestrial or cosmic origin) is—

**Table 2**

**Concentration of radionuclides**

| *Radionuclide* | *Concentration in becquerels per gram (Bq/g)* |
|---|---|
| H-3 | $10^2$ |
| Be-7 | 10 |
| C-14 | 10 |
| F-18 | 1 |
| Na-22 | 0.1 |
| Na-24 | 0.1 |
| Si-31 | $10^2$ |
| P-32 | $10^2$ |
| P-33 | $10^2$ |
| S-35 | $10^2$ |
| Cl-36 | 1 |

(**a**) For the meaning of 'sec' and '+' in this Part, see paragraph 3.

| *Radionuclide* | *Concentration in becquerels per gram (Bq/g)* |
|---|---|
| Cl-38 | 1 |
| K-42 | 10 |
| K-43 | 1 |
| Ca-45 | $10^2$ |
| Ca-47 | 1 |
| Sc-46 | 0.1 |
| Sc-47 | 10 |
| Sc-48 | 0.1 |
| V-48 | 0.1 |
| Cr-51 | 10 |
| Mn-51 | 1 |
| Mn-52 | 0.1 |
| Mn-52m | 1 |
| Mn-53 | $10^3$ |
| Mn-54 | 0.1 |
| Mn-56 | 1 |
| Fe-52+ | 1 |
| Fe-55 | $10^2$ |
| Fe-59 | 0.1 |
| Co-55 | 1 |
| Co-56 | 0.1 |
| Co-57 | 1 |
| Co-58 | 0.1 |
| Co-58m | $10^2$ |
| Co-60 | 0.1 |
| Co-60m | $10^3$ |
| Co-61 | $10^2$ |
| Co-62m | 1 |
| Ni-59 | $10^2$ |
| Ni-63 | $10^2$ |
| Ni-65 | 1 |
| Cu-64 | 10 |
| Zn-65 | 1 |
| Zn-69 | $10^2$ |
| Zn-69m+ | 1 |
| Ga-72 | 1 |
| Ge-71 | $10^4$ |
| As-73 | $10^2$ |
| As-74 | 1 |
| As-76 | 1 |
| As-77 | $10^2$ |
| Se-75 | 1 |
| Br-82 | 0.1 |
| Rb-86 | 10 |
| Sr-85 | 1 |
| Sr-85m | 10 |
| Sr-87m | 10 |
| Sr-89 | 10 |
| Sr-90+ | 1 |
| Sr-91+ | 1 |

| *Radionuclide* | *Concentration in becquerels per gram (Bq/g)* |
|---|---|
| Sr-92 | 1 |
| Y-90 | $10^2$ |
| Y-91 | 10 |
| Y-91m | 1 |
| Y-92 | 10 |
| Y-93 | 10 |
| Zr-93 | 10 |
| Zr-95+ | 0.1 |
| Zr-97+ | 1 |
| Nb-93m | $10^2$ |
| Nb-94 | 0.1 |
| Nb-95 | 1 |
| Nb-97+ | 1 |
| Nb-98 | 1 |
| Mo-90 | 1 |
| Mo-93 | 10 |
| Mo-99+ | 1 |
| Mo-101+ | 1 |
| Tc-96 | 0.1 |
| Tc-96m | 10 |
| Tc-97 | 10 |
| Tc-97m | 10 |
| Tc-99 | 1 |
| Tc-99m | $10^2$ |
| Ru-97 | 1 |
| Ru-103+ | 1 |
| Ru-105+ | 1 |
| Ru-106+ | 1 |
| Rh-103m | $10^4$ |
| Rh-105 | 10 |
| Pd-103+ | $10^3$ |
| Pd-109+ | $10^2$ |
| Ag-105 | 1 |
| Ag-108m+ | 0.1 |
| Ag-110m+ | 0.1 |
| Ag-111 | 10 |
| Cd-109+ | 10 |
| Cd-115+ | 1 |
| Cd-115m+ | 10 |
| In-111 | 1 |
| In-113m | 10 |
| In-114m+ | 1 |
| In-115m | 10 |
| Sn-113+ | 1 |
| Sn-125 | 1 |
| Sb-122 | 1 |
| Sb-124 | 0.1 |
| Sb-125+ | 1 |
| Te-123m | 1 |
| Te-125m | $10^2$ |

| *Radionuclide* | *Concentration in becquerels per gram (Bq/g)* |
|---|---|
| Te-127 | $10^2$ |
| Te-127m+ | 10 |
| Te-129 | 10 |
| Te-129m+ | 10 |
| Te-131 | 10 |
| Te-131m+ | 1 |
| Te-132+ | 0.1 |
| Te-133+ | 1 |
| Te-133m+ | 1 |
| Te-134 | 1 |
| I-123 | 10 |
| I-125 | 1 |
| I-126 | 1 |
| I-129 | 0.1 |
| I-130 | 1 |
| I-131+ | 1 |
| I-132 | 1 |
| I-133 | 1 |
| I-134 | 1 |
| I-135 | 1 |
| Cs-129 | 1 |
| Cs-131 | $10^3$ |
| Cs-132 | 1 |
| Cs-134 | 0.1 |
| Cs-134m | $10^3$ |
| Cs-135 | 10 |
| Cs-136 | 0.1 |
| Cs-137+ | 1 |
| Cs-138 | 1 |
| Ba-131 | 1 |
| Ba-140 | 0.1 |
| La-140 | 0.1 |
| Ce-139 | 1 |
| Ce-141 | 10 |
| Ce-143 | 1 |
| Ce-144+ | 10 |
| Pr-142 | 10 |
| Pr-143 | $10^2$ |
| Nd-147 | 10 |
| Nd-149 | 10 |
| Pm-147 | $10^2$ |
| Pm-149 | $10^2$ |
| Sm-151 | $10^2$ |
| Sm-153 | 10 |
| Eu-152 | 0.1 |
| Eu-152m | 10 |
| Eu-154 | 0.1 |
| Eu-155 | 10 |
| Gd-153 | 10 |
| Gd-159 | 10 |

| *Radionuclide* | *Concentration in becquerels per gram (Bq/g)* |
|---|---|
| Tb-160 | 0.1 |
| Dy-165 | $10^2$ |
| Dy-166 | 10 |
| Ho-166 | 10 |
| Er-169 | $10^2$ |
| Er-171 | 10 |
| Tm-170 | 10 |
| Tm-171 | $10^2$ |
| Yb-175 | 10 |
| Lu-177 | 10 |
| Hf-181 | 1 |
| Ta-182 | 0.1 |
| W-181 | 10 |
| W-185 | $10^2$ |
| W-187 | 1 |
| Re-186 | $10^2$ |
| Re-188 | 10 |
| Os-185 | 1 |
| Os-191 | 10 |
| Os-191m | $10^3$ |
| Os-193 | 10 |
| Ir-190 | 0.1 |
| Ir-192 | 0.1 |
| Ir-194 | 10 |
| Pt-191 | 1 |
| Pt-193m | $10^2$ |
| Pt-197 | $10^2$ |
| Pt-197m | $10^2$ |
| Au-198 | 1 |
| Au-199 | 10 |
| Hg-197 | 10 |
| Hg-197m | 10 |
| Hg-203 | 1 |
| Tl-200 | 1 |
| Tl-201 | 10 |
| Tl-202 | 1 |
| Tl-204 | 10 |
| Pb-203 | 1 |
| Pb-210+ | 0.01 |
| Pb-212+ | 1 |
| Bi-206 | 0.1 |
| Bi-207 | 0.1 |
| Bi-210 | 10 |
| Bi-212+ | 1 |
| Po-203 | 1 |
| Po-205 | 1 |
| Po-207 | 1 |
| Po-210 | 0.01 |
| At-211 | $10^2$ |
| Ra-223+ | 1 |

| *Radionuclide* | *Concentration in becquerels per gram (Bq/g)* |
|---|---|
| Ra-224+ | 1 |
| Ra-225 | 1 |
| Ra-226+ | 0.01 |
| Ra-227 | 10 |
| Ra-228+ | 0.01 |
| Ac-227+ | 0.01 |
| Ac-228 | 1 |
| Th-226+ | $10^2$ |
| Th-227 | 1 |
| Th-228+ | 0.1 |
| Th-229+ | 0.1 |
| Th-230 | 0.1 |
| Th-231 | $10^2$ |
| Th-232 | 0.01 |
| Th-232+ | 0.01 |
| Th-232sec | 0.01 |
| Th-234+ | 10 |
| Pa-230 | 1 |
| Pa-231 | 0.01 |
| Pa-233 | 1 |
| U-230+ | 1 |
| U-231 | 10 |
| U-232+ | 0.1 |
| U-233 | 1 |
| U-234 | 1 |
| U-235+ | 1 |
| U-235sec | 0.01 |
| U-236 | 1 |
| U-237 | 10 |
| U-238+ | 1 |
| U-238sec | 0.01 |
| U-239 | $10^2$ |
| U-240+ | 10 |
| Np-237+ | 0.1 |
| Np-239 | 10 |
| Np-240 | 1 |
| Pu-234 | $10^2$ |
| Pu-235 | $10^2$ |
| Pu-236 | 0.1 |
| Pu-237 | 10 |
| Pu-238 | 0.1 |
| Pu-239 | 0.1 |
| Pu-240 | 0.1 |
| Pu-241 | 1 |
| Pu-242 | 0.1 |
| Pu-243 | $10^2$ |
| Pu-244+ | 0.1 |
| Am-241 | 0.1 |
| Am-242 | $10^2$ |
| Am-242m+ | 0.1 |

| *Radionuclide* | *Concentration in becquerels per gram (Bq/g)* |
|---|---|
| Am-243+ | 0.1 |
| Cm-242 | 1 |
| Cm-243 | 0.1 |
| Cm-244 | 0.1 |
| Cm-245 | 0.1 |
| Cm-246 | 0.1 |
| Cm-247+ | 0.1 |
| Cm-248 | 0.1 |
| Bk-249 | 10 |
| Cf-246 | 10 |
| Cf-248 | 1 |
| Cf-249 | 0.1 |
| Cf-250 | 0.1 |
| Cf-251 | 0.1 |
| Cf-252 | 0.1 |
| Cf-253 | 1 |
| Cf-253+ | 1 |
| Cf-254 | 0.1 |
| Es-253 | 1 |
| Es-254+ | 0.1 |
| Es-254m+ | 1 |
| Fm-254 | $10^2$ |
| Fm-255 | 10 |
| Any other solid or relevant liquid radionuclide that is not of natural terrestrial or cosmic origin | 0.01<br>or that concentration which gives rise to a dose to a member of the public of 10 microsieverts per year calculated by reference to guidance by Euratom in RP 122 part 1(**a**). |

(2) The Table 2 column 2 summation rule means the sum of the quotients A/B where—

(a) "A" means the concentration of each radionuclide listed in column 1 of Table 2 that is present in the substance or article, and

(b) "B" means the concentration of that radionuclide specified in column 2 of Table 2.

**References in Table 1 and Table 2 to + and sec**

**3.** Where any radionuclide carries the suffix "+" or "sec" in Table 1 or Table 2—

(a) that radionuclide represents the parent radionuclide in secular equilibrium with the corresponding daughter radionuclides which are identified in column 2 of Table 3 in respect of that parent radionuclide, and

(b) a concentration value given in a table in this Part in respect of such a parent radionuclide is the value for the parent radionuclide alone, but already takes into account the daughter radionuclides present.

**Table 3**

**4.** The Table 3 referred to in paragraph 3 is—

(**a**) See https://ec.europa.eu/energy/sites/ener/files/documents/122_part1.pdf.

**Table 3**

**Radionuclides in secular equilibrium**

| *Parent radionuclide* | *Daughter radionuclides* |
|---|---|
| Fe-52+ | Mn-52m |
| Zn-69m+ | Zn-69 |
| Sr-90+ | Y-90 |
| Sr-91+ | Y-91m |
| Zr-95+ | Nb-95m |
| Zr-97+ | Nb-97m, Nb-97 |
| Nb-97+ | Nb-97m |
| Mo-99+ | Tc-99m |
| Mo-101+ | Tc-101 |
| Ru-103+ | Rh-103m |
| Ru-105+ | Rh-105m |
| Ru-106+ | Rh-106 |
| Pd-103+ | Rh-103m |
| Pd-109+ | Ag-109m |
| Ag-108m+ | Ag-108 |
| Ag-110m+ | Ag-110 |
| Cd-109+ | Ag-109m |
| Cd-115+ | In-115m |
| Cd-115m+ | In-115m |
| In-114m+ | In-114 |
| Sn-113+ | In-113m |
| Sb-125+ | Te-125m |
| Te-127m+ | Te-127 |
| Te-129m+ | Te-129 |
| Te-131m+ | Te-131 |
| Te-132+ | I-132 |
| Te-133+ | I-133, Xe-133m, Xe-133 |
| Te-133m+ | Te-133, I-133, Xe-133m, Xe-133 |
| I-131+ | Xe-131m |
| Cs-137+ | Ba-137m |
| Ce-144+ | Pr-144, Pr-144m |
| Pb-210+ | Bi-210, Po-210 |
| Pb-212+ | Bi-212, Tl-208 |
| Bi-212+ | Tl-208 |
| Ra-223+ | Rn-219, Po-215, Pb-211, Bi-211, Tl-207 |
| Ra-224+ | Rn-220, Po-216, Pb-212, Bi-212, Tl-208 |
| Ra-226+ | Rn-222, Po-218, Pb-214, Bi-214, Po-214 |
| Ra-228+ | Ac-228 |
| Ac-227+ | Th-227, Fr-223, Ra-223, Rn-219, Po-215, Pb-211, Bi-211, Tl-207, Po-211 |
| Th-226+ | Ra-222, Rn-218, Po-214 |
| Th-228+ | Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 |
| Th-229+ | Ra-225, Ac-225, Fr-221, At-217, Bi-213, Tl-209, Pb-209 |
| Th-232+ | Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 |

| *Parent radionuclide* | *Daughter radionuclides* |
|---|---|
| Th-232sec | Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208 |
| Th-234+ | Pa-234m, Pa-234 |
| U-230+ | Th-226, Ra-222, Rn-218, Po-214 |
| U-232+ | Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 |
| U-235+ | Th-231 |
| U-235sec | Th-231, Pa-231, Ac-227, Th-227, Fr-223, Ra-223, Rn-219, Po-215, Pb-211, Bi-211, Tl-207, Po-211 |
| U-238+ | Th-234, Pa-234m, Pa-234 |
| U-238sec | Th-234, Pa-234m, Pa-234, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210 |
| U-240+ | Np-240m, Np-240 |
| Np-237+ | Pa-233 |
| Pu-244+ | U-240, Np-240m, Np-240 |
| Am-242m+ | Np-238 |
| Am-243+ | Np-239 |
| Cm-247+ | Pu-243 |
| Cf-253+ | Cm-249 |
| Es-254+ | Bk-250 |
| Es-254m+ | Fm-254 |

# PART 4

## The Basic Safety Standards Directive

### SECTION 1

*Exposures and doses*

**Optimisation and dose limits**

**1.** In respect of a radioactive substances activity that relates to radioactive waste, the regulator must exercise its relevant functions to ensure that—

(a) all exposures to ionising radiation of any member of the public and of the population as a whole resulting from the disposal of radioactive waste are kept as low as reasonably achievable, taking into account economic and social factors, and

(b) the sum of the doses resulting from the exposure of any member of the public to ionising radiation does not exceed the dose limits set out in Article 13 of the Basic Safety Standards Directive subject to the exclusions set out in Article 6(4) of that Directive.

**Specific dose limits and calculation**

**2.**—(1) In exercising those relevant functions in relation to the planning stage of radiation protection, the regulator must have regard to the following maximum doses to individuals which may result from a defined source—

(a) 0.3 millisieverts per year from any source from which radioactive discharges are first made on or after 13th May 2000, or

(b) 0.5 millisieverts per year from the discharges from any single site.

(2) In exercising those relevant functions, the regulator must observe the requirements of the following provisions of the Basic Safety Standards Directive—

(a) in estimating effective dose and equivalent dose, Articles 15 and 16,

(b) in estimating population doses, Article 45, and

(c) in relation to the responsibilities of undertakings, Article 47.

SECTION 2

*Interventions*

**Radioactive waste: power of the Secretary of State to provide facilities for disposal or accumulation**

**3.**—(1) If it appears to the Secretary of State that adequate facilities are not available for the safe disposal or accumulation of radioactive waste, the Secretary of State may—

(a) provide such facilities, or

(b) make arrangements for their provision by such persons as the Secretary of State may think fit.

(2) Before exercising the power under sub-paragraph (1), the Secretary of State must consult with—

(a) any local authority in whose area the facilities would be situated, and

(b) such other public or local authorities (if any) as appear to the Secretary of State to be proper to be consulted.

(3) Reasonable charges for the use of any facilities provided under sub-paragraph (1) may be made by—

(a) the Secretary of State, or

(b) the person providing such facilities, unless the arrangements made by the Secretary of State with that person provide to the contrary.

**Radioactive waste: power of disposal by the regulator**

**4.**—(1) Sub-paragraph (2) applies if there is radioactive waste on any premises and the regulator is satisfied that the waste ought to be disposed of but that it is unlikely that the waste will be lawfully disposed of—

(a) because the premises are unoccupied,

(b) because the occupier is absent or insolvent, or

(c) for any other reason.

(2) The regulator may dispose of the waste and recover any expenses it reasonably incurs in that disposal from—

(a) the occupier of the premises;

(b) if the premises are unoccupied, the owner of the premises.

(3) In sub-paragraph (2)—

(a) "owner" has the same meaning as in section 343 of the Public Health Act 1936(**a**), and

(b) the provisions of section 294 of that Act(**b**) (which limits the liability of owners who are only agents or trustees) apply but as if reference in that section to a council recovering expenses under that Act were to the regulator recovering expenses under sub-paragraph (2).

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(**a**) 1936 c. 49.

(**b**) Section 294 was modified, in relation to steps required to be taken by certain notices, by S.I. 1990/1519, 1992/656 and 1492.

# PART 5

## The HASS Directive

### SECTION 1

*Security of sources*

**Interpretation**

**1.** In this Part—

"high-activity or similar source" means—

(a) a high-activity source, or

(b) such other sealed source which, in the opinion of the regulator, is of a similar level of potential hazard to a high-activity source;

"high-activity source" has the same meaning as in the HASS Directive but excluding any such source once its activity level has fallen below the exemption levels specified in column 2 of Table A to Annex I to the Basic Safety Standards Directive;

"orphan source" has the same meaning as in the HASS Directive;

"sealed source" has the same meaning as in the HASS Directive.

**Site security: inspection**

**2.**—(1) In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with sub-paragraph (3) where a high-activity or similar source is, or will be, kept, used, disposed of or accumulated on any premises.

(2) Sub-paragraph (1) does not apply where the premises are, or are part of, a nuclear site.

(3) In considering if the measures taken, or to be taken, by the operator ensure the adequate security of any premises, the regulator must where appropriate inspect those premises.

(4) Where the regulator inspects any premises under sub-paragraph (3), it may be accompanied by such other persons as are appropriate to assist it in assessing the measures.

(5) An operator must permit the regulator (and any person accompanying it) reasonable access to any premises the regulator wishes to inspect under sub-paragraph (3).

(6) If the operator fails to comply with sub-paragraph (5), the regulator may refuse the application or revoke the permit insofar as it relates to the sources referred to in sub-paragraph (1).

**Site security: security measures and advice**

**3.**—(1) In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with sub-paragraph (2) where a high-activity or similar source is, or will be, kept, used, disposed of or accumulated on any premises.

(2) The regulator—

(a) must satisfy itself that there are in place measures concerning site security, including the security measures in sub-paragraph (3), as are appropriate to the source and premises in question,

(b) where it considers it appropriate to do so, must consult the police, security services or other appropriate persons on site security,

(c) must have regard to any advice given by them, if it is issued within such time as the regulator believes is reasonable before it exercises a relevant function, and

(d) must impose appropriate environmental permit conditions concerning site security.

(3) The security measures referred to in sub-paragraph (2)(a) are—

(a) measures to ensure the physical security of the premises, including the installation of alarm and detection systems, and the retaining of documentary evidence of those measures,

(b) measures, which are evidenced in writing—

(i) to prevent unauthorised access to, or loss or theft of, a high-activity or similar source,

(ii) to detect such matters, and

(iii) to review and enhance the physical security of the premises in response to any increased risk of unauthorised access, loss or theft,

(c) written procedures to ensure that before a person is authorised to have access to a high-activity or similar source—

(i) that person has passed checks to verify their identity, and

(ii) satisfactory written references have been obtained which confirm, as far as reasonably practicable, that there is no information to indicate that the person presents any security risk to the sources, and

(d) measures to keep secure, and prevent unauthorised access to, information relating to—

(i) a high-activity or similar source, and

(ii) the measures referred to in paragraphs (a), (b) and (c).

SECTION 2

*Advice and assistance in relation to orphan sources*

**Advice and assistance in respect of orphan sources**

**4.**—(1) The relevant person must ensure that specialised technical advice and assistance is promptly made available to persons who—

(a) are not normally involved in operations subject to radiation protection requirements, and

(b) suspect the presence of an orphan source.

(2) The relevant person must ensure that the primary aim of such advice and assistance is—

(a) the safety of the source, and

(b) protecting the public and workers from radiation.

(3) The relevant person means—

(a) in relation to the protection of workers, the Secretary of State;

(b) in relation to the protection of the public (other than workers)—

(i) in England, the Secretary of State;

(ii) in Wales, the Welsh Ministers.

SECTION 3

*Exercise of relevant functions and matters in relation to orphan sources*

**General**

**5.**—(1) In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with the following provisions of the HASS Directive—

(a) Article 3(2) and (3);

(b) Article 4;

(c) Article 5(1) and (2);

(d) Article 6;

(e) subject to sub-paragraph (2), Article 7(1) and (2).

(2) In relation to a high-activity source placed on the market before 31st December 2005, sub-paragraph (1)(e) has effect as if it referred to the provisions contained in Article 16(1)(b) of the HASS Directive.

**Records and inspections**

**6.** In relation to a high-activity source, the regulator must—

(a) keep records of those matters—

(i) required by Article 5(3) and (4) of the HASS Directive, and

(ii) notified to it under Article 6 of that Directive, and

(b) establish or maintain a system of inspections to enforce the following provisions of the HASS Directive—

(i) Articles 3 to 6;

(ii) as appropriate, Article 7(1) and (2) or Article 16(1)(b).

**Training and information**

**7.**—(1) In relation to a high-activity source, the appropriate training and adequate information required by the Ionising Radiations Regulations 1999(**a**) must include—

(a) specific requirements for the safe management of such a source,

(b) particular emphasis on the necessary safety requirements in relation to such a source, and

(c) specific information on possible consequences of the loss of adequate control of such a source.

(2) The training and information on the matters in sub-paragraph (1) must be repeated at regular intervals and documented, with a view to preparing the employees and other persons referred to in those Regulations for such matters.

**Orphan sources**

**8.**—(1) The regulator must—

(a) be prepared, or have made provision (including the assignment of responsibilities), to recover any orphan source, and

(b) have drawn up appropriate response plans and measures.

(2) The regulator may recover any expenses reasonably incurred by it in the recovery and disposal of an orphan source from—

(a) the person carrying on the radioactive substances activity involving that source, or

(b) the occupier or owner of the premises where the source is located.

(3) In relation to sub-paragraph (2)—

(a) "owner" has the same meaning as in section 343 of the Public Health Act 1936, and

(b) the provisions of section 294 of that Act (which limits the liability of owners who are only agents or trustees) apply but as if reference in that section to a council recovering expenses under that Act were to the regulator recovering expenses under sub-paragraph (2).

(**a**) S.I. 1999/3232, amended by S.I. 2001/2626, 2975, 2002/2099, 2008/960, 2010/675, 2011/1043, 2013/755 (W. 90), 1471, 2014/469 and 3248.

# PART 6

## Radioactive substances activity exemptions

### SECTION 1

*General*

**Interpretation**

**1.** In this Part—

"Ba-137m eluting source" means a source which consists of Cs-137 in a sealed container which is designed and constructed to allow the elution of Ba-137m, and which is radioactive material or radioactive waste solely because of that Cs-137;

"Class A gaseous tritium light device" means a gaseous tritium light device where the activity of the device does not exceed 2 x $10^{10}$ Bq of tritium;

"Class B gaseous tritium light device" means a gaseous tritium light device which is installed or intended to be installed on premises and where the activity—

(a) in each sealed container in the device does not exceed 8 x $10^{10}$ Bq of tritium, and

(b) of the device does not exceed 1 x $10^{12}$ Bq of tritium;

"Class C gaseous tritium light device" means a gaseous tritium light device installed or intended to be installed—

(a) in a vessel or aircraft, or

(b) in a vehicle or other equipment used or intended to be used by the armed forces of the Crown;

"disposal permit" means—

(a) an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule, or

(b) an authorisation under the 1993 Act to dispose of radioactive waste held in respect of premises situated in Northern Ireland or Scotland;

"electrodeposited source" means an article where radionuclides are electrodeposited onto a metal substrate and which is radioactive material or radioactive waste solely because it contains Ni-63 or Fe-55;

"gaseous tritium light device" means a sealed source in a device which is an illuminant, instrument, sign or indicator which—

(a) incorporates tritium in one or more sealed containers constructed to prevent dispersion of that tritium in normal use, and

(b) is radioactive material solely because it contains that tritium;

"luminised article" means an article which is made wholly or partly from a luminescent substance in the form of a film or a paint and which—

(a) is radioactive material or radioactive waste solely because it contains Pm-147 or H-3, and

(b) is not a sealed source;

"management", in respect of waste, means—

(a) the preparation by checking, cleaning or repairing that waste for its re-use without further processing,

(b) the recovery of that waste,

(c) the disposal of that waste, or

(d) the application of any treatment process to that waste which is preparatory to the recovery or disposal of it,

and cognate expressions shall be construed accordingly;

"relevant river" means a river or a part of a river which—

(a) is not a part of the sea, and

(b) at the place and time of any disposal into it of aqueous radioactive waste from a sewage disposal works or directly from premises, has a flow-rate which is not less than $1m^3s^{-1}$;

"relevant sewer" means—

(a) a public sewer, or

(b) a disposal main which leads to a sewage disposal works that—

(i) has the capacity to handle a minimum of $100m^3$ of effluent per day, and

(ii) discharges treated effluent only to the sea or to a relevant river,

and "public sewer", "disposal main", "sewage disposal works" and "effluent" have the same meaning as in the Water Industry Act 1991(**a**);

"relevant standard conditions" has the meaning given in paragraph 10;

"sea" includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river;

"sealed source" means a radioactive source containing radioactive material where the structure is designed to prevent, under normal use, any dispersion of radioactive substances, excluding such a source where it is an electrodeposited source or a tritium foil source;

"stored in transit" means the storage in the course of transit of radioactive material or radioactive waste but does not include any storage of such material or waste where it is removed from its container;

"Table 4", "Table 5", "Table 6", "Table 7" or "Table 8" means the table with that number in this Part;

"a tritium foil source" means an article which—

(a) has a mechanically tough surface into which tritium is incorporated, and

(b) is radioactive material or radioactive waste solely because of that tritium;

"uranium or thorium compound" means a substance or article which is radioactive material or radioactive waste solely because it is or contains metallic uranium or thorium or prepared compounds of uranium or thorium, and in respect of which metal or compound the proportion of—

(a) U-235 in the uranium it contains is no more than 0.72% by mass, and

(b) any isotope of thorium it contains is present in the isotopic proportions found in nature;

"waste permitted person" means, in relation to the radioactive waste where the term appears, a person who holds—

(a) an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) or (c) of Part 2 of this Schedule, or

(b) in respect of premises in Scotland or Northern Ireland, an authorisation under section 13 or 14 of the 1993 Act;

"week" means any period of 7 consecutive days;

"year" means a calendar year.

**Interpretation: NORM**

**2.**—(1) In this Part, "NORM waste" means a substance or article which is solid radioactive waste under—

(a) paragraph 4 of Part 2 of this Schedule, or

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(**a**) 1991 c. 56; the definition of "public sewer" was amended by section 99(6) of the Water Act 2003 (c. 37).

(b) except where sub-paragraph (2) applies, paragraph 5 of that Part where the waste arises from the remediation of land.

(2) Land is not contaminated under sub-paragraph (1)(b) where the land is on a site in respect of which a nuclear site licence is or has been in force and the contamination occurred—

(a) when that licence was in force, or

(b) before that licence was granted, when the site was used for the purpose of installing or operating an installation described in subsection (1) of section 1 of the Nuclear Installations Act 1965(**a**) or in regulations made under that subsection.

(3) In these Regulations, "NORM waste concentration" means, in respect of radionuclides contained in NORM waste, the sum of the concentrations of the single radionuclide with the highest concentration in each of the natural decay chains beginning with—

(a) U-238,

(b) U-235, and

(c) Th-232.

SECTION 2

*Exemption for keeping and using radioactive material and accumulating radioactive waste*

**Exemption for keeping and using radioactive material**

**3.**—(1) A person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(a) of Part 2 of this Schedule in respect of—

(a) subject to sub-paragraph (2), the radioactive material described in paragraph 5, where A complies with the relevant standard conditions and—

(i) in respect of radioactive material described in paragraph 5(1)(a), the condition in paragraph 6(1), and

(ii) in respect of radioactive material described in paragraph 5(1)(b), the condition in paragraph 6(2), or

(b) radioactive material stored in transit.

(2) A is not exempt from the requirement for an environmental permit under sub-paragraph (1)(a) in respect of a high activity source where A takes possession of it.

**Exemption for accumulating radioactive waste**

**4.**—(1) This paragraph applies to the following radioactive substances activities—

(a) the activity described in paragraph 11(2)(c) of Part 2 of this Schedule ("Activity A"), and

(b) the activity described in paragraph 11(4) of Part 2 of this Schedule ("Activity B").

(2) In this paragraph, "paragraph 5 waste" means radioactive waste described in paragraph 5.

(3) A person ("A") is exempt from the requirement for an environmental permit to carry on Activity A or B, in respect of radioactive waste which is stored in transit.

(4) Subject to sub-paragraph (5), a person ("B") is exempt from the requirement for an environmental permit to carry on Activity A or B in respect of paragraph 5 waste where—

(a) B receives that waste for accumulation on premises (with a view to its subsequent management by B on those premises),

(b) in respect of those premises B manages substantial quantities of waste which is not radioactive waste, and

(**a**) 1965 c. 57; section 1 was substituted by paragraph 17 of Part 2 of Schedule 12 to the Energy Act 2013 (c. 32).

(c) the management of the radioactive waste will be completed by B as soon as is reasonably practicable, with the radioactive waste dispersed in non-radioactive waste.

(5) B is not exempt under sub-paragraph (4) from the requirement for an environmental permit to carry on Activity B where the waste received by B is or contains a high-activity source.

(6) A person ("C") is exempt from the requirement for an environmental permit to carry on Activity A in respect of paragraph 5 waste, where C complies with the relevant standard conditions and—

(a) in respect of radioactive waste described in paragraph 5(1)(a), the condition in paragraph 6(1), and

(b) in respect of radioactive waste described in paragraph 5(1)(b), the condition in paragraph 6(2).

(7) A person ("D") is exempt from the requirement for an environmental permit to carry on Activity A in respect of radioactive waste which is a sealed source, an electrodeposited source or a tritium foil source which—

(a) contains a quantity of radionuclides which exceeds the value specified in column 2 of Table 4 in respect of the relevant type of source,

(b) immediately before it became radioactive waste, was radioactive material in the form of a sealed source, an electrodeposited source or a tritium foil source (as appropriate), and

(c) has not been received by D for the purpose of D disposing of it,

where D complies with the relevant standard conditions.

**Radioactive substances exempted under paragraphs 3 and 4**

**5.**—(1) Subject to sub-paragraph (2), paragraphs 3(1)(a) and 4(4) and (6) apply to—

(a) a substance or article described in an entry in column 1 of Table 4 which contains a quantity of radionuclides that does not exceed the value specified in column 2 of Table 4 in respect of that substance or article, or

(b) any substance or article which is not described in an entry in column 1 of Table 4.

(2) Sub-paragraph (1) does not apply to NORM waste with a NORM waste concentration which is less than or equal to 10 Bq/g.

**Conditions in respect of the total quantity or concentration of radioactive substances on any premises**

**6.**—(1) The condition referred to in paragraphs 3(1)(a)(i) and 4(6)(a) is that, in respect of the total amount of a substance or article described in paragraph 5(1)(a) (including any mobile radioactive apparatus) on the premises, the quantity of radionuclides must not exceed the value specified for that substance or article in column 3 of Table 4.

(2) The condition referred to in paragraphs 3(1)(a)(ii) and 4(6)(b) in respect of a substance or article described in paragraph 5(1)(b) is that—

(a) in respect of the total amount of such substances and articles on the premises, the quantity of radioactivity does not exceed the value specified in column 2 of Table 5, or

(b) no such substance or article on the premises contains a concentration of radioactivity that exceeds the value specified in column 3 of Table 5.

**Exemption for accumulating NORM waste**

**7.**—(1) This paragraph applies—

(a) to the following radioactive substances activities—

(i) the activity described in paragraph 11(2)(c) of Part 2 of this Schedule ("Activity A");

(ii) the activity described in paragraph 11(4) of Part 2 of this Schedule ("Activity B"), and

(b) where Activity A or B is carried on in respect of NORM waste with a NORM waste concentration that does not exceed 10 Bq/g ("Qualifying NORM Waste").

(2) Subject to sub-paragraph (5) where it applies, a person ("A") is exempt from the requirement for an environmental permit to carry on Activity A or Activity B in respect of Qualifying NORM Waste, where another person ("B") transfers that waste to A—

(a) in accordance with—

(i) a disposal permit held by B, or

(ii) an exemption from holding such a permit that applied to B in respect of the transfer to A, and

(b) for the purpose of its accumulation by A with a view to its subsequent management by A on the premises on which it is received by A.

(3) Subject to sub-paragraph (5) where it applies, a person ("C") is exempt from the requirement for an environmental permit to carry on Activity A in respect of Qualifying NORM Waste where C complies with the relevant standard conditions.

(4) Sub-paragraph (5) applies to a person ("D") who holds an environmental permit to carry on Activity A on premises ("the relevant premises") in respect of NORM waste with a NORM waste concentration which is more than 10 Bq/g.

(5) The exemptions in sub-paragraphs (2) and (3) do not apply to D in respect of Qualifying NORM waste—

(a) with a NORM waste concentration which exceeds 5 Bq/g, and

(b) which is accumulated on the relevant premises.

SECTION 3

*Exemption for keeping or using mobile radioactive apparatus*

**Exemption for keeping or using mobile radioactive apparatus**

**8.**—(1) A person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(5) of Part 2 of this Schedule in respect of—

(a) a mobile radioactive apparatus described in an entry in column 1 of Table 4 where—

(i) that apparatus contains a quantity of radionuclides that does not exceed the value specified in column 2 of Table 4 in respect of an apparatus of that description, and

(ii) A complies with the conditions in sub-paragraph (2), or

(b) mobile radioactive apparatus stored in transit.

(2) The conditions in this sub-paragraph are that A must—

(a) ensure that in relation to the total amount of all such mobile radioactive apparatus that A holds, the quantity of radionuclides does not exceed the value specified, in respect of an apparatus of that description, in column 3 of Table 4, and

(b) comply with the relevant standard conditions.

SECTION 4

*Relevant standard conditions*

**Interpretation of this Section**

**9.** In this Section, "radioactive substances" means radioactive material, mobile radioactive apparatus and radioactive waste, and "exempt radioactive substances" means radioactive substances in respect of which an exemption in Section 2 or 3 of this Part applies.

**Relevant standard conditions**

**10.**—(1) Reference to the relevant standard conditions in Sections 1 to 3 of this Part, means in respect of the exemption provided for in—

(a) paragraph 3(1)(a), the conditions in paragraphs 11 and 12;

(b) paragraph 4(6), 4(7) or 7(3), the conditions in paragraphs 11, 12 and 14;

(c) paragraph 8(1)(a), the conditions in paragraphs 11 and 13.

(2) A condition in paragraph 11, 12 or 13 does not apply in respect of an exemption in Section 2 or 3 of this Part unless that condition is a relevant condition in respect of that exemption.

**General conditions**

**11.** A person ("A") to whom the conditions in this paragraph apply must—

(a) keep an adequate record of any exempt radioactive substances which A holds, and—

(i) in respect of exempt radioactive substances which are mobile radioactive apparatus, the locations at which they are kept or used;

(ii) in respect of other exempt radioactive substances, the location within the premises where A holds them,

(b) ensure that where reasonably practicable exempt radioactive substances or the containers of such radioactive substances, are marked or labelled as radioactive,

(c) in respect of exempt radioactive substances which are sealed sources, electrodeposited sources or tritium foil sources, not modify or mutilate those sources or cause a loss of containment such that radioactive material or radioactive waste may be released outside the source,

(d) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the conditions in respect of the relevant exemption are complied with,

(e) hold the exempt radioactive substances safely and securely to prevent, so far as reasonably practicable—

(i) accidental removal, loss or theft from the premises where they are held, or

(ii) loss of containment, and

(f) in respect of exempt radioactive substances in a container—

(i) not modify or mutilate that container, and

(ii) prevent any uncontrolled or unintended release of radioactive material or radioactive waste from the container.

**Loss or theft conditions**

**12.**—(1) Subject to sub-paragraph (2), in the event of an incident of loss or theft (or suspected loss or theft) of exempt radioactive substances (except mobile radioactive apparatus) from the premises where they are held, a person to whom the condition in this paragraph applies must—

(a) notify the incident to the regulator as soon as reasonably practicable, and

(b) include in that notification the details of any other incidents of loss or theft (or suspected loss or theft) of any radioactive substances from those premises over the 12 months preceding the incident being notified.

(2) In respect of an incident described in sub-paragraph (1), a notification to the regulator is not required where in respect of the aggregated total amount of exempt radioactive substances (excluding mobile radioactive apparatus) lost or stolen (or suspected to have been lost or stolen) from the premises in the incident and in all other such incidents in the 12 months preceding it, the total quantity of radioactivity does not exceed the value that is ten times the value in column 2 of Table 5.

**Loss or theft conditions: mobile radioactive apparatus**

**13.**—(1) Subject to sub-paragraph (2), in the event of an incident of loss or theft (or suspected loss or theft) of mobile radioactive apparatus from a person ("A") to whom the condition in this paragraph applies, A must—

(a) notify the incident to the regulator as soon as reasonably practicable, and

(b) include in that notification the details of any other incidents of loss or theft (or suspected loss or theft) of any mobile radioactive apparatus from A over the 12 months preceding the incident being notified.

(2) In respect of an incident described in sub-paragraph (1), a notification to the regulator is not required where in respect of the aggregated total amount of mobile radioactive apparatus lost or stolen (or suspected to have been lost or stolen) from A in the incident and in all other such incidents in the 12 months preceding it, the total quantity of radioactivity does not exceed the value that is ten times the value in column 2 of Table 5.

**Condition to dispose of accumulated waste**

**14.** A person to whom the condition in this paragraph applies must dispose of the radioactive waste which is the subject of the exemption to which this condition applies—

(a) as soon as reasonably practicable after it has become waste, and

(b) in the case of such waste where it is a sealed source, a tritium foil source or an electrodeposited source, in any event within 26 weeks after it has become waste unless the regulator advises in writing that a longer period of accumulation is allowed.

SECTION 5

*Exemption for disposing of solid radioactive waste*

**Exemption for receiving and disposing of solid radioactive waste**

**15.**—(1) This paragraph applies to the following radioactive substances activities—

(a) the activity described in paragraph 11(2)(b) of Part 2 of this Schedule ("Activity A");

(b) the activity described in paragraph 11(4) of Part 2 of this Schedule ("Activity B").

(2) A person ("A") is exempt from the requirement for an environmental permit to carry on Activity A or Activity B in respect of solid radioactive waste described in paragraph 16(1)(a) where—

(a) A receives the waste on premises for the purpose of it being managed by A on those premises,

(b) in respect of those premises A manages substantial quantities of waste which is not radioactive waste, and

(c) the radioactive waste will be disposed of by A as soon as is reasonably practicable with the radioactive waste dispersed in non-radioactive waste.

(3) A person ("B") is exempt from the requirement for an environmental permit to carry on Activity A in respect of solid radioactive waste described in paragraph 16(1) where—

(a) in respect of a sealed source, an electrodeposited source or a tritium foil source, B complies with the conditions in paragraph 17(2), and

(b) in respect of any other waste described in paragraph 16(1)(a), B complies with the conditions in paragraph 17(1) and (2).

**Solid radioactive waste**

**16.**—(1) Solid radioactive waste referred to in paragraph 15 means—

(a) subject to sub-paragraph (2), solid radioactive waste described in an entry in column 1 of Table 6 which does not contain a concentration of radionuclides that exceeds the value specified in column 2 of that table in respect of that kind of waste, or

(b) a sealed source, an electrodeposited source or a tritium foil source which is not described in paragraph (a).

(2) Sub-paragraph (1)(a) does not apply to waste—

(a) where, prior to the disposal of that waste, a person has diluted it with the intention of ensuring that sub-paragraph (1)(a) is met, or

(b) which is NORM waste with a NORM waste concentration which is less than or equal to 10 Bq/g.

**Conditions in respect of solid radioactive waste**

**17.**—(1) The condition referred to in paragraph 15(3)(b) is that B must ensure that, in respect of the total amount of a waste to which this condition applies that is disposed of on or from the premises, the quantity of radioactivity which that waste contains must not exceed the value specified in column 3 of Table 6 in respect of that waste during the period stated in that column.

(2) The conditions referred to in paragraph 15(3)(a) and (b) are that B must—

(a) keep an adequate record of the solid radioactive waste which B disposes of on or from any premises under that paragraph,

(b) dispose of the waste by any of the routes described in sub-paragraph (3),

(c) where the disposal route in sub-paragraph (3)(a) is used, ensure that where reasonably practicable any marking or labelling of the waste or its container is removed before the person disposes of that waste,

(d) where the waste is or was a high-activity source, notify the details of the disposal to the regulator within 14 days of the disposal (including the information required by Annex II to the HASS Directive), in such form as may be required by the regulator, and

(e) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the conditions that apply in respect of the relevant exemption in paragraph 15(3) are complied with.

(3) The routes referred to in sub-paragraph (2)(b) are that the waste is transferred to—

(a) subject to sub-paragraph (4), a person who manages substantial quantities of non-radioactive waste and where the radioactive waste will be so managed with the radioactive waste dispersed in non-radioactive waste,

(b) a waste permitted person, or

(c) where the waste is a sealed source, an electrodeposited source or a tritium foil source, to a licensee of a nuclear site or to a person who is situated in another country and who is lawfully entitled to receive such waste.

(4) The route in sub-paragraph (3)(a) does not apply in respect of waste—

(a) described in paragraph 16(1)(b), or

(b) which is described in paragraph 16(1)(a) and which is a sealed source, an electrodeposited source or a tritium foil source, where in respect of the total amount of such a source which is disposed of on or from the premises under paragraph 15(3), the quantity of radioactivity which that waste contains exceeds the value specified in column 3 of Table 6 in respect of that source during the period stated in that column.

SECTION 6

*Exemption for disposing of NORM waste*

**Exemption for receiving and disposing of NORM waste**

**18.**—(1) This paragraph applies—

(a) to the following radioactive substances activities—

(i) the activity described in paragraph 11(2)(b) of Part 2 of this Schedule ("Activity A");

(ii) the activity described in paragraph 11(4) of Part 2 of this Schedule ("Activity B"), and

(b) where Activity A or B is carried on in respect of NORM waste—

(i) with a NORM waste concentration that does not exceed 5 Bq/g ("type 1 NORM Waste"), or

(ii) with a NORM waste concentration that exceeds 5 Bq/g but does not exceed 10 Bq/g ("type 2 NORM waste").

(2) Subject to sub-paragraph (6), a person ("A") is exempt from the requirement for an environmental permit to carry on Activity A or Activity B in respect of type 1 NORM waste or type 2 NORM waste where another person ("B") transfers that waste to A—

(a) in accordance with—

(i) a disposal permit held by B, or

(ii) an exemption from holding such a permit that applied to B in respect of the transfer to A, and

(b) for the purpose of its disposal by A on the premises on which A receives it.

(3) Where a person ("C") disposes of—

(a) type 1 NORM waste on or from premises, sub-paragraph (4) applies to C, or

(b) type 2 NORM waste on or from premises, sub-paragraph (5) applies to C.

(4) C is exempt from the requirement for an environmental permit to carry on Activity A in respect of type 1 NORM waste where in relation to the total amount of such waste disposed of on or from the premises by C per year—

(a) the quantity of radionuclides does not exceed $5 \times 10^{10}$ Bq, and C complies with the conditions in paragraph 19(1), or

(b) subject to sub-paragraph (6), the quantity of radionuclides exceeds $5 \times 10^{10}$ Bq, and C complies with—

(i) the conditions in paragraph 19(1), and

(ii) where C intends to dispose of the waste by one of the methods in paragraph 19(2)(a), the conditions in paragraph 19(3).

(5) Subject to sub-paragraph (6), C is exempt from the requirement for an environmental permit to carry on Activity A in respect of type 2 NORM waste where C complies with the conditions in paragraph 19(1) and (3).

(6) Sub-paragraph (7) applies to a person ("E") where E holds an environmental permit to carry on Activity A for the disposal on or from premises ("the relevant premises") of NORM waste with a NORM waste concentration which exceeds 10 Bq/g.

(7) The following exemptions do not apply to E—

(a) the exemptions in sub-paragraph (2) in respect of type 2 NORM waste,

(b) the exemption in sub-paragraph (4)(b), and

(c) the exemption in sub-paragraph (5).

**Conditions in respect of NORM waste**

**19.**—(1) The conditions referred to in the exemptions in paragraph 18(4)(a) and (b)(i) and (5) are that C must—

(a) keep an adequate record of the NORM waste which C disposes of under those exemptions,

(b) dispose of the waste by any of the methods described in sub-paragraph (2),

(c) where the disposal method in sub-paragraph (2)(a) or (b) is used, ensure that where reasonably practicable any marking or labelling of the waste or its container is removed before C disposes of that waste, and

(d) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the conditions that apply to C in respect of the relevant exemption in that paragraph are complied with.

(2) The methods referred to in sub-paragraph (1)(b) are that the waste is disposed of—

(a) subject to sub-paragraph (3) where it applies, by burial in landfill or by the transfer of the waste to a person for the purpose of—

(i) the burial in landfill of the waste, or

(ii) the application of a treatment process to the waste which is preparatory to the burial in landfill of that waste,

(b) by incineration (or transfer to a person for such incineration or treatment which is preparatory to the incineration of the waste), but not in respect of—

(i) type 1 NORM waste, where in respect of the total amount of that waste that is incinerated (or transferred to a person for preparation or incineration) per year the quantity of radionuclides in the total amount of that waste exceeds $1 \times 10^8$ Bq, or

(ii) type 2 NORM waste, or

(c) by transfer to a waste permitted person.

(3) The conditions referred to in paragraph 18(4)(b)(ii) and (5) are that C must—

(a) make a written radiological assessment of the reasonably foreseeable pathways for the exposure of the public and workers to radiation in respect of—

(i) the application of any treatment process to the waste which is preparatory to its burial in landfill, at the place of that treatment, and

(ii) the burial in landfill of that waste, at the place of disposal,

(b) be satisfied that the assessment demonstrates that radiation doses are not expected to exceed—

(i) 1 millisievert per year to any worker at the place of treatment or disposal, and

(ii) 300 microsievert per year to any member of the public,

(c) provide that assessment to the regulator at least 28 days before the first disposal is made, and

(d) not dispose of that waste (or continue to do so) if the regulator objects in writing to that assessment.

SECTION 7

*Exemption for disposing of aqueous radioactive waste*

**Exemption for disposing of aqueous radioactive waste in Table 6**

**20.**—(1) Subject to sub-paragraph (2), a person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule in respect of aqueous radioactive waste described in an entry in column 1 of Table 6, where A complies with the conditions in sub-paragraph (3).

(2) A is not exempt under sub-paragraph (1) where the person who generated that waste did not minimise the quantity of radionuclides generated as waste to the extent reasonably practicable.

(3) The conditions referred to in sub-paragraph (1) are that, in respect of the waste described in that sub-paragraph, A must—

(a) ensure that in respect of the total amount of that waste that is disposed of on or from the premises in a year, the quantity of radioactivity which that waste contains does not exceed the value specified in column 3 of Table 6 in respect of that waste,

(b) dispose of that waste to a relevant sewer or to a waste permitted person,

(c) keep an adequate record of that waste which A disposes of on or from the premises, and

(d) allow the regulator access to such records or such premises as the regulator may request in order to determine that the preceding conditions in this sub-paragraph are complied with.

**Exemption for disposing of other aqueous radioactive waste**

**21.**—(1) Subject to sub-paragraph (2), a person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule in respect of aqueous radioactive waste described in sub-paragraph (3) where A disposes of that waste in accordance with the conditions in paragraph 22(1).

(2) A is not exempt under sub-paragraph (1) in respect of premises, where A holds an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule for the disposal of aqueous radioactive waste on or from those premises.

(3) Subject to sub-paragraph (4), the waste referred to in sub-paragraph (1) is aqueous radioactive waste—

(a) which is not described in an entry in column 1 of Table 6, and

(b) with a total concentration of radioactivity which does not exceed 100 Bq/ml.

(4) Sub-paragraph (3) does not apply to aqueous radioactive waste—

(a) which a person has diluted with the intention that—

(i) the waste has a concentration of radioactivity which is below the value in sub-paragraph (3)(b), or

(ii) the condition in paragraph 22(3)(a) or (4)(b) is complied with in respect of that waste, or

(b) where the person who generated that waste did not minimise the quantity of radionuclides generated as waste to the extent reasonably practicable.

**Conditions in respect of aqueous radioactive waste in paragraph 21**

**22.**—(1) The conditions referred to in paragraph 21(1) are that A must—

(a) subject to sub-paragraph (2), dispose of the waste to which that paragraph applies—

(i) directly into a relevant river or the sea,

(ii) to a relevant sewer, or

(iii) to a waste permitted person,

(b) keep an adequate record of the waste which A disposes of from the premises under that paragraph,

(c) in respect of the disposal of aqueous non-Table 6 waste, comply with sub-paragraph (3) or (4) as appropriate, and

(d) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the preceding conditions are complied with.

(2) In respect of aqueous non-Table 6 waste disposed of from the premises, A must not use both of the disposal routes described in sub-paragraph (1)(a)(i) and (ii) in a year and where—

(a) A uses the route in sub-paragraph (1)(a)(i), the conditions in sub-paragraph (3) apply to A, or

(b) A uses the route in sub-paragraph (1)(a)(ii), or A does not use the route in either sub-paragraph (1)(a)(i) or (ii), the conditions in sub-paragraph (4) apply to A.

(3) Where this sub-paragraph applies and A disposes of the aqueous non-Table 6 waste directly into a relevant river or the sea, A must—

(a) in respect of any aqueous non-Table 6 waste which A disposes of, ensure that the concentration of radioactivity does not exceed the value specified in column 2 of Table 7, and

(b) in respect of the total amount of aqueous non-Table 6 waste which A disposes of from the premises in a year, ensure that the quantity of radioactivity does not exceed the value specified in column 4 of Table 7.

(4) Where this sub-paragraph applies and A disposes of the aqueous non-Table 6 waste to a relevant sewer (or only to a waste permitted person), A must ensure that, in respect of the total amount of aqueous non-Table 6 waste which is disposed of from those premises in a year, the total quantity of radioactivity does not exceed—

(a) where any of that waste has a concentration of radioactivity which exceeds the value specified in column 2 of Table 7, the value in sub-paragraph (5), or

(b) where none of that waste has a concentration of radioactivity which exceeds the value specified in column 2 of Table 7, the value in sub-paragraph (5) or (6).

(5) The value referred to in sub-paragraph (4)(a) and (b) is—

(a) $1 \times 10^8$ Bq for the sum of the following radionuclides: H-3, C-11, C-14, F-18, P-32, P-33, S-35, Ca-45, Cr-51, Fe-55, Ga-67, Sr-89, Y-90, Tc-99m, In-111, I-123, I-125, I-131, Sm-153, Tl-201, and

(b) $1 \times 10^6$ Bq for the sum of all other radionuclides.

(6) The value referred to in sub-paragraph (4)(b) is the value specified in column 3 of Table 7.

(7) In this paragraph, "aqueous non-Table 6 waste" means aqueous radioactive waste which is not described in an entry in column 1 of Table 6.

SECTION 8

*Exemption for disposal of gaseous radioactive waste*

**Exemption for disposal of gaseous radioactive waste**

**23.**—(1) Subject to sub-paragraph (2), a person ("A") is exempt from the requirement for an environmental permit to carry on the radioactive substances activity described in paragraph 11(2)(b) of Part 2 of this Schedule in respect of gaseous radioactive waste where—

(a) the only radionuclide contained in that waste is Kr-85 and A—

(i) ensures that in respect of the total amount of such waste which is disposed of from the premises in a year, the total quantity of radioactivity does not exceed $10^{11}$ Bq, and

(ii) complies with the conditions in paragraph 24(1), or

(b) subject to sub-paragraph (3), that waste—

(i) is released from within a container at the time that the container is opened, and

(ii) is emitted by solid or liquid radioactive material within the container,

and A complies with the conditions in paragraph 24(1).

(2) Sub-paragraph (1) does not apply to waste where the person who generated that waste did not minimise the quantity of radionuclides generated as waste to the extent reasonably practicable.

(3) Sub-paragraph (1)(b) does not apply in respect of any gas which arises as a result of a process applied by a person to the contained radioactive material.

**Conditions in respect of gaseous radioactive waste**

**24.**—(1) The conditions referred to in paragraph 23(1) are that A must—

(a) to the extent that is reasonably practicable—

(i) in respect of relevant gaseous waste which arises in a building, cause the waste to be disposed of by an extraction system which removes the waste from the area where it arose and which vents the waste into the atmosphere, and

(ii) prevent the entry or, where sub-paragraph (i) applies, the re-entry, of relevant gaseous waste into a building, and

(b) allow the regulator access to such records or such premises as the regulator may request in order to determine that all of the conditions that apply to A in respect of the relevant exemption in that paragraph are complied with.

(2) In this paragraph "relevant gaseous waste" means waste which is described in paragraph 23(1) and disposed of under the exemption in that paragraph.

SECTION 9

*Tables and summation rules in this Part*

**Table 4**

**25.** The Table 4 referred to in Sections 2 and 3 of this Part—

**Table 4**

**Radioactive material and accumulated radioactive waste: values of maximum quantities**

| *Substance or article* | *Maximum quantity of radionuclides for each substance or article* | *Maximum quantity of radionuclides:*<br>*(a) on any premises in items which satisfy the limit in column 2, or*<br>*(b) in mobile radioactive apparatus held by a person* |
|---|---|---|
| A sealed source of a type not described in any other row of this Table | $4 \times 10^6$ Bq | $2 \times 10^8$ Bq |
| A Class A gaseous tritium light device | $2 \times 10^{10}$ Bq | $5 \times 10^{12}$ Bq |
| A Class B gaseous tritium light device | $1 \times 10^{12}$ Bq | $3 \times 10^{13}$ Bq |
| A Class C gaseous tritium light device | $1 \times 10^{12}$ Bq | No limit |
| Any sealed source which is solely radioactive material or radioactive waste because it contains tritium | $2 \times 10^{10}$ Bq | $5 \times 10^{12}$ Bq |
| A tritium foil source | $2 \times 10^{10}$ Bq | $5 \times 10^{12}$ Bq |
| A smoke detector affixed to premises | $4 \times 10^6$ Bq | No limit |
| An electrodeposited source | $6 \times 10^8$ Bq Ni-63 or $2 \times 10^8$ Bq Fe-55 | $6 \times 10^{11}$ Bq |
| A luminised article | $8 \times 10^7$ Bq Pm-147 or $4 \times 10^9$ Bq H-3 | $4 \times 10^{10}$ Bq Pm-147 or $2 \times 10^{11}$ Bq H-3 |
| A Ba-137m eluting source | $4 \times 10^4$ Bq Cs-137+ | $4 \times 10^5$ Bq Cs-137+ |
| A substance or article which is or contains magnesium alloy or thoriated tungsten in which the thorium concentration does not exceed 4% by mass | No limit | No limit |
| A uranium or thorium | Up to a total of 5kg of uranium | Up to a total of 5kg of uranium |

| *Substance or article* | *Maximum quantity of radionuclides for each substance or article* | *Maximum quantity of radionuclides:*<br>*(a) on any premises in items which satisfy the limit in column 2, or*<br>*(b) in mobile radioactive apparatus held by a person* |
|---|---|---|
| compound | and thorium | and thorium |
| A substance or article (other than a sealed source) which is intended for use for, used for, or arises from medical or veterinary diagnosis or treatment or clinical or veterinary trials | 1 x $10^9$ Bq Tc-99m<br><br>and<br><br>in respect of the total for all other radionuclides—<br><br>(i) 1 x $10^8$ Bq if the substance or article is radioactive material, or<br>(ii) 2 x $10^8$ Bq if the substance or article is radioactive waste | 1 x $10^9$ Bq Tc-99m<br><br>and<br><br>2 x $10^8$ Bq of all other radionuclides, (no more than 1 x $10^8$ Bq of which is contained in radioactive material) |

**Table 5**

**26.**—(1) The Table 5 referred to in Sections 2 and 4 of this Part is—

**Table 5**

**Radionuclides: values of quantities and concentrations**

| *Radionuclides* | *Maximum quantity of radioactivity (Bq) on any premises* | *Maximum concentration (Bq/g)* |
|---|---|---|
| H-3 | $10^9$ | $10^6$ |
| Be-7 | $10^7$ | $10^3$ |
| C-14 | $10^7$ | $10^4$ |
| O-15 | $10^9$ | $10^2$ |
| F-18 | $10^6$ | 10 |
| Na-22 | $10^6$ | 10 |
| Na-24 | $10^5$ | 10 |
| Si-31 | $10^6$ | $10^3$ |
| P-32 | $10^5$ | $10^3$ |
| P-33 | $10^8$ | $10^5$ |
| S-35 | $10^8$ | $10^5$ |
| Cl-36 | $10^6$ | $10^4$ |
| Cl-38 | $10^5$ | 10 |
| Ar-37 | $10^8$ | $10^6$ |
| Ar-41 | $10^9$ | $10^2$ |
| K-42 | $10^6$ | $10^2$ |
| K-43 | $10^6$ | 10 |
| Ca-45 | $10^7$ | $10^4$ |
| Ca-47 | $10^6$ | 10 |
| Sc-46 | $10^6$ | 10 |
| Sc-47 | $10^6$ | $10^2$ |
| Sc-48 | $10^5$ | 10 |

| *Radionuclides* | *Maximum quantity of radioactivity (Bq) on any premises* | *Maximum concentration (Bq/g)* |
|---|---|---|
| V-48 | $10^5$ | 10 |
| Cr-51 | $10^7$ | $10^3$ |
| Mn-51 | $10^5$ | 10 |
| Mn-52 | $10^5$ | 10 |
| Mn-52m | $10^5$ | 10 |
| Mn-53 | $10^9$ | $10^4$ |
| Mn-54 | $10^6$ | 10 |
| Mn-56 | $10^5$ | 10 |
| Fe-52 | $10^6$ | 10 |
| Fe-55 | $10^6$ | $10^4$ |
| Fe-59 | $10^6$ | 10 |
| Co-55 | $10^6$ | 10 |
| Co-56 | $10^5$ | 10 |
| Co-57 | $10^6$ | $10^2$ |
| Co-58 | $10^6$ | 10 |
| Co-58m | $10^7$ | $10^4$ |
| Co-60 | $10^5$ | 10 |
| Co-60m | $10^6$ | $10^3$ |
| Co-61 | $10^6$ | $10^2$ |
| Co-62m | $10^5$ | 10 |
| Ni-59 | $10^8$ | $10^4$ |
| Ni-63 | $10^8$ | $10^5$ |
| Ni-65 | $10^6$ | 10 |
| Cu-64 | $10^6$ | $10^2$ |
| Zn-65 | $10^6$ | 10 |
| Zn-69 | $10^6$ | $10^4$ |
| Zn-69m | $10^6$ | $10^2$ |
| Ga-72 | $10^5$ | 10 |
| Ge-71 | $10^8$ | $10^4$ |
| As-73 | $10^7$ | $10^3$ |
| As-74 | $10^6$ | 10 |
| As-76 | $10^5$ | $10^2$ |
| As-77 | $10^6$ | $10^3$ |
| Se-75 | $10^6$ | $10^2$ |
| Br-82 | $10^6$ | 10 |
| Kr-74 | $10^9$ | $10^2$ |
| Kr-76 | $10^9$ | $10^2$ |
| Kr-77 | $10^9$ | $10^2$ |
| Kr-79 | $10^5$ | $10^3$ |
| Kr-81 | $10^7$ | $10^4$ |
| Kr-83m | $10^{12}$ | $10^5$ |
| Kr-85 | $10^4$ | $10^5$ |
| Kr-85m | $10^{10}$ | $10^3$ |
| Kr-87 | $10^9$ | $10^2$ |
| Kr-88 | $10^9$ | $10^2$ |
| Rb-86 | $10^5$ | $10^2$ |
| Sr-85 | $10^6$ | $10^2$ |
| Sr-85m | $10^7$ | $10^2$ |

| *Radionuclides* | *Maximum quantity of radioactivity (Bq) on any premises* | *Maximum concentration (Bq/g)* |
|---|---|---|
| Sr-87m | $10^6$ | $10^2$ |
| Sr-89 | $10^6$ | $10^3$ |
| Sr-90+ | $10^4$ | $10^2$ |
| Sr-91 | $10^5$ | 10 |
| Sr-92 | $10^6$ | 10 |
| Y-90 | $10^5$ | $10^3$ |
| Y-91 | $10^6$ | $10^3$ |
| Y-91m | $10^6$ | $10^2$ |
| Y-92 | $10^5$ | $10^2$ |
| Y-93 | $10^5$ | $10^2$ |
| Zr-93+ | $10^7$ | $10^3$ |
| Zr-95 | $10^6$ | 10 |
| Zr-97+ | $10^5$ | 10 |
| Nb-93m | $10^7$ | $10^4$ |
| Nb-94 | $10^6$ | 10 |
| Nb-95 | $10^6$ | 10 |
| Nb-97 | $10^6$ | 10 |
| Nb-98 | $10^5$ | 10 |
| Mo-90 | $10^6$ | 10 |
| Mo-93 | $10^8$ | $10^3$ |
| Mo-99 | $10^6$ | $10^2$ |
| Mo-101 | $10^6$ | 10 |
| Tc-96 | $10^6$ | 10 |
| Tc-96m | $10^7$ | $10^3$ |
| Tc-97 | $10^8$ | $10^3$ |
| Tc-97m | $10^7$ | $10^3$ |
| Tc-99 | $10^7$ | $10^4$ |
| Tc-99m | $10^7$ | $10^2$ |
| Ru-97 | $10^7$ | $10^2$ |
| Ru-103 | $10^6$ | $10^2$ |
| Ru-105 | $10^6$ | 10 |
| Ru-106+ | $10^5$ | $10^2$ |
| Rh-103m | $10^8$ | $10^4$ |
| Rh-105 | $10^7$ | $10^2$ |
| Pd-103 | $10^8$ | $10^3$ |
| Pd-109 | $10^6$ | $10^3$ |
| Ag-105 | $10^6$ | $10^2$ |
| Ag-108m+ | $10^6$ | 10 |
| Ag-110m | $10^6$ | 10 |
| Ag-111 | $10^6$ | $10^3$ |
| Cd-109 | $10^6$ | $10^4$ |
| Cd-115 | $10^6$ | $10^2$ |
| Cd-115m | $10^6$ | $10^3$ |
| In-111 | $10^6$ | $10^2$ |
| In-113m | $10^6$ | $10^2$ |
| In-114m | $10^6$ | $10^2$ |
| In-115m | $10^6$ | $10^2$ |
| Sn-113 | $10^7$ | $10^3$ |

| *Radionuclides* | *Maximum quantity of radioactivity (Bq) on any premises* | *Maximum concentration (Bq/g)* |
|---|---|---|
| Sn-125 | $10^5$ | $10^2$ |
| Sb-122 | $10^4$ | $10^2$ |
| Sb-124 | $10^6$ | 10 |
| Sb-125 | $10^6$ | $10^2$ |
| Te-123m | $10^7$ | $10^2$ |
| Te-125m | $10^7$ | $10^3$ |
| Te-127 | $10^6$ | $10^3$ |
| Te-127m | $10^7$ | $10^3$ |
| Te-129 | $10^6$ | $10^2$ |
| Te-129m | $10^6$ | $10^3$ |
| Te-131 | $10^5$ | $10^2$ |
| Te-131m | $10^6$ | 10 |
| Te-132 | $10^7$ | $10^2$ |
| Te-133 | $10^5$ | 10 |
| Te-133m | $10^5$ | 10 |
| Te-134 | $10^6$ | 10 |
| I-123 | $10^7$ | $10^2$ |
| I-125 | $10^6$ | $10^3$ |
| I-126 | $10^6$ | $10^2$ |
| I-129 | $10^5$ | $10^2$ |
| I-130 | $10^6$ | 10 |
| I-131 | $10^6$ | $10^2$ |
| I-132 | $10^5$ | 10 |
| I-133 | $10^6$ | 10 |
| I-134 | $10^5$ | 10 |
| I-135 | $10^6$ | 10 |
| Xe-131m | $10^4$ | $10^4$ |
| Xe-133 | $10^4$ | $10^3$ |
| Xe-135 | $10^{10}$ | $10^3$ |
| Cs-129 | $10^5$ | $10^2$ |
| Cs-131 | $10^6$ | $10^3$ |
| Cs-132 | $10^5$ | 10 |
| Cs-134m | $10^5$ | $10^3$ |
| Cs-134 | $10^4$ | 10 |
| Cs-135 | $10^7$ | $10^4$ |
| Cs-136 | $10^5$ | 10 |
| Cs-137+ | $10^4$ | 10 |
| Cs-138 | $10^4$ | 10 |
| Ba-131 | $10^6$ | $10^2$ |
| Ba-140+ | $10^5$ | 10 |
| La-140 | $10^5$ | 10 |
| Ce-139 | $10^6$ | $10^2$ |
| Ce-141 | $10^7$ | $10^2$ |
| Ce-143 | $10^6$ | $10^2$ |
| Ce-144+ | $10^5$ | $10^2$ |
| Pr-142 | $10^5$ | $10^2$ |
| Pr-143 | $10^6$ | $10^4$ |
| Nd-147 | $10^6$ | $10^2$ |

| *Radionuclides* | *Maximum quantity of radioactivity (Bq) on any premises* | *Maximum concentration (Bq/g)* |
|---|---|---|
| Nd-149 | $10^6$ | $10^2$ |
| Pm-147 | $10^7$ | $10^4$ |
| Pm-149 | $10^6$ | $10^3$ |
| Sm-151 | 108 | $10^4$ |
| Sm-153 | $10^6$ | $10^2$ |
| Eu-152 | $10^6$ | 10 |
| Eu-152m | $10^6$ | $10^2$ |
| Eu-154 | $10^6$ | 10 |
| Eu-155 | $10^7$ | $10^2$ |
| Gd-153 | $10^7$ | $10^2$ |
| Gd-159 | $10^6$ | $10^3$ |
| Tb-160 | $10^6$ | 10 |
| Dy-165 | $10^6$ | $10^3$ |
| Dy-166 | $10^6$ | $10^3$ |
| Ho-166 | $10^5$ | $10^3$ |
| Er-169 | $10^7$ | $10^4$ |
| Er-171 | $10^6$ | $10^2$ |
| Tm-170 | $10^6$ | $10^3$ |
| Tm-171 | $10^8$ | $10^4$ |
| Yb-175 | $10^7$ | $10^3$ |
| Lu-177 | $10^7$ | $10^3$ |
| Hf-181 | $10^6$ | 10 |
| Ta-182 | $10^4$ | 10 |
| W-181 | $10^7$ | $10^3$ |
| W-185 | $10^7$ | $10^4$ |
| W-187 | $10^6$ | $10^2$ |
| Re-186 | $10^6$ | $10^3$ |
| Re-188 | $10^5$ | $10^2$ |
| Os-185 | $10^6$ | 10 |
| Os-191 | $10^7$ | $10^2$ |
| Os-191m | $10^7$ | $10^3$ |
| Os-193 | $10^6$ | $10^2$ |
| Ir-190 | $10^6$ | 10 |
| Ir-192 | $10^4$ | 10 |
| Ir-194 | $10^5$ | $10^2$ |
| Pt-191 | $10^6$ | $10^2$ |
| Pt-193m | $10^7$ | $10^3$ |
| Pt-197 | $10^6$ | $10^3$ |
| Pt-197m | $10^6$ | $10^2$ |
| Au-198 | $10^6$ | $10^2$ |
| Au-199 | $10^6$ | $10^2$ |
| Hg-197 | $10^7$ | $10^2$ |
| Hg-197m | $10^6$ | $10^2$ |
| Hg-203 | $10^5$ | $10^2$ |
| Tl-200 | $10^6$ | 10 |
| Tl-201 | $10^6$ | $10^2$ |
| Tl-202 | $10^6$ | $10^2$ |
| Tl-204 | $10^4$ | $10^4$ |

| *Radionuclides* | *Maximum quantity of radioactivity (Bq) on any premises* | *Maximum concentration (Bq/g)* |
|---|---|---|
| Pb-203 | $10^6$ | $10^2$ |
| Pb-210+ | $10^4$ | 10 |
| Pb-212+ | $10^5$ | 10 |
| Bi-206 | $10^5$ | 10 |
| Bi-207 | $10^6$ | 10 |
| Bi-210 | $10^6$ | $10^3$ |
| Bi-212+ | $10^5$ | 10 |
| Po-203 | $10^6$ | 10 |
| Po-205 | $10^6$ | 10 |
| Po-207 | $10^6$ | 10 |
| Po-210 | $10^4$ | 10 |
| At-211 | $10^7$ | $10^3$ |
| Rn-220+ | $10^7$ | $10^4$ |
| Rn-222+ | $10^8$ | 10 |
| Ra-223+ | $10^5$ | $10^2$ |
| Ra-224+ | $10^5$ | 10 |
| Ra-225 | $10^5$ | $10^2$ |
| Ra-226+ | $10^4$ | 10 |
| Ra-227 | $10^6$ | $10^2$ |
| Ra-228+ | $10^5$ | 10 |
| Ac-228 | $10^6$ | 10 |
| Th-226+ | $10^7$ | $10^3$ |
| Th-227 | $10^4$ | 10 |
| Th-228+ | $10^4$ | 1 |
| Th-229+ | $10^3$ | 1 |
| Th-230 | $10^4$ | 1 |
| Th-231 | $10^7$ | $10^3$ |
| Th-232 sec | $10^3$ | 1 |
| Th-234+ | $10^5$ | $10^3$ |
| Pa-230 | $10^6$ | 10 |
| Pa-231 | $10^3$ | 1 |
| Pa-233 | $10^7$ | $10^2$ |
| U-230+ | $10^5$ | 10 |
| U-231 | $10^7$ | $10^2$ |
| U-232+ | $10^3$ | 1 |
| U-233 | $10^4$ | 10 |
| U-234 | $10^4$ | 10 |
| U-235+ | $10^4$ | 10 |
| U-236 | $10^4$ | 10 |
| U-237 | $10^6$ | $10^2$ |
| U-238+ | $10^4$ | 10 |
| U-238 sec | $10^3$ | 1 |
| U-239 | $10^6$ | $10^2$ |
| U-240 | $10^7$ | $10^3$ |
| U-240+ | $10^6$ | 10 |
| Np-237+ | $10^3$ | 1 |
| Np-239 | $10^7$ | $10^2$ |
| Np-240 | $10^6$ | 10 |

| *Radionuclides* | *Maximum quantity of radioactivity (Bq) on any premises* | *Maximum concentration (Bq/g)* |
|---|---|---|
| Pu-234 | $10^7$ | $10^2$ |
| Pu-235 | $10^7$ | $10^2$ |
| Pu-236 | $10^4$ | 10 |
| Pu-237 | $10^7$ | $10^3$ |
| Pu-238 | $10^4$ | 1 |
| Pu-239 | $10^4$ | 1 |
| Pu-240 | $10^3$ | 1 |
| Pu-241 | $10^5$ | $10^2$ |
| Pu-242 | $10^4$ | 1 |
| Pu-243 | $10^7$ | $10^3$ |
| Pu-244 | $10^4$ | 1 |
| Am-241 | $10^4$ | 1 |
| Am-242 | $10^6$ | $10^3$ |
| Am-242m+ | $10^4$ | 1 |
| Am-243+ | $10^3$ | 1 |
| Cm-242 | $10^5$ | $10^2$ |
| Cm-243 | $10^4$ | 1 |
| Cm-244 | $10^4$ | 10 |
| Cm-245 | $10^3$ | 1 |
| Cm-246 | $10^3$ | 1 |
| Cm-247 | $10^4$ | 1 |
| Cm-248 | $10^3$ | 1 |
| Bk-249 | $10^6$ | $10^3$ |
| Cf-246 | $10^6$ | $10^3$ |
| Cf-248 | $10^4$ | 10 |
| Cf-249 | $10^3$ | 1 |
| Cf-250 | $10^4$ | 10 |
| Cf-251 | $10^3$ | 1 |
| Cf-252 | $10^4$ | 10 |
| Cf-253 | $10^5$ | $10^2$ |
| Cf-254 | $10^3$ | 1 |
| Es-253 | $10^5$ | $10^2$ |
| Es-254 | $10^4$ | 10 |
| Es-254m | $10^6$ | $10^2$ |
| Fm-254 | $10^7$ | $10^4$ |
| Fm-255 | $10^6$ | $10^3$ |
| Any other radionuclide that is:<br>(a) not of natural terrestrial or cosmic origin, or<br>(b) listed in Table 2 in this Schedule. | $10^3$, or the quantity given in respect of that radionuclide in the Health Protection Agency's publication '*Exempt Concentrations and Quantities for Radionuclides not Included in the European Basic Safety Standards Directive*'(**a**). | 1, or the concentration given in respect of that radionuclide in the publication referenced in column 2. |

(**a**) Published by the National Radiological Protection Board, Chilton, Oxfordshire, 1999, NRPB-R306 (ISBN 978-0-85951-429-3). A copy may be obtained from the CRCE Directors' Office, Centre for Chemical, Radiation and Environmental Hazards, Public Health England, Chilton, Didcot, OX11 0RQ.

(2) The summation rule in respect of column 2 of Table 5 is the sum of the quotients A/B where—

(a) "A" means the quantity of each radionuclide listed in column 1 of Table 5 that is present in the material and waste, and

(b) "B" means the quantity of that radionuclide specified in column 2 of Table 5.

(3) The summation rule in respect of column 2 of Table 5 is the sum of the quotients C/D where—

(a) "C" means the concentration of each radionuclide listed in column 1 of Table 5 that is present in the material and waste, and

(b) "D" means the concentration of that radionuclide specified in column 3 of Table 5.

**Table 6**

**27.** The Table 6 referred to in Sections 5 and 7 of this Part is—

**Table 6**

**Radioactive waste: values of quantities and concentrations**

| *Radioactive waste* | *Maximum concentration of radionuclides* | *Maximum quantity of radioactivity to be disposed of in the period stated* |
|---|---|---|
| Solid radioactive waste, with no single item > $4 \times 10^4$ Bq | $4 \times 10^5$ Bq for the sum of all radionuclides per $0.1m^3$ | $2 \times 10^8$ Bq/year |
| Solid radioactive waste containing tritium and C-14 only, with no single item > $4 \times 10^5$ Bq | $4 \times 10^6$ Bq of tritium and C-14 per $0.1m^3$ | $2 \times 10^9$ Bq/year |
| Individual sealed sources | $2 \times 10^5$ Bq for the sum of all radionuclides per $0.1m^3$ | $1 \times 10^7$ Bq/year |
| Individual sealed sources which are solely radioactive waste because they contain tritium | $2 \times 10^{10}$ Bq of tritium per $0.1m^3$ | $1 \times 10^{13}$ Bq/year |
| Luminised articles with no single item containing > $8 \times 10^7$ Bq of Pm-147 or > $4 \times 10^9$ of tritium | $8 \times 10^7$ Bq per $0.1m^3$ of Pm-147<br>or $4 \times 10^9$ Bq per $0.1m^3$ for tritium | $2 \times 10^9$ Bq/year of Pm-147<br>or $1 \times 10^{11}$ Bq/year of tritium |
| Solid radioactive waste which consists of magnesium alloy, thoriated tungsten or dross from hardener alloy in which the thorium concentration does not exceed 4% by mass | No limit | No limit |
| Solid uranium or thorium compound | No limit | 0.5kg of uranium or thorium per week |
| Aqueous liquid uranium or thorium compound | No limit | 0.5kg of uranium or thorium per year |
| Aqueous liquid human excreta | No limit | $1 \times 10^{10}$ Bq/year of Tc-99m and<br>$5 \times 10^9$ Bq/year for the sum of all other radionuclides |

**Table 7**

**28.**—(1) The Table 7 referred to in Section 7 of this Part is—

**Table 7**

**Aqueous radioactive waste values**

| *Radionuclide* | *Concentration in Bq/ litre* | *Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)* | *Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)* |
|---|---|---|---|
| H-3 | $10^3$ | $10^{10}$ | $10^{10}$ |
| Be-7 | 1 | $10^7$ | $10^7$ |
| C-14 | 0.1 | $10^6$ | $10^6$ |
| F-18 | 0.1 | $10^6$ | $10^6$ |
| Na-22 | 1 | $10^6$ | $10^7$ |
| Na-24 | 1 | $10^7$ | $10^7$ |
| Si-31 | 10 | $10^8$ | $10^8$ |
| P-32 | 0.001 | $10^4$ | $10^4$ |
| P-33 | 0.001 | $10^4$ | $10^4$ |
| S-35 | 10 | $3 \times 10^7$ | $10^8$ |
| Cl-36 | 10 | $10^7$ | $10^8$ |
| Cl-38 | 0.1 | $10^6$ | $10^6$ |
| K-42 | 0.01 | $10^5$ | $10^5$ |
| K-43 | 0.01 | $10^5$ | $10^5$ |
| Ca-45 | 1 | $10^7$ | $10^7$ |
| Ca-47 | 0.1 | $10^6$ | $10^6$ |
| Sc-46 | 0.001 | $10^4$ | $10^4$ |
| Sc-47 | 0.01 | $10^5$ | $10^5$ |
| Sc-48 | 0.001 | $10^4$ | $10^4$ |
| V-48 | 1 | $10^7$ | $10^7$ |
| Cr-51 | 10 | $10^8$ | $10^8$ |
| Mn-51 | 0.001 | $10^4$ | $10^4$ |
| Mn-52 | 0.001 | $10^4$ | $10^4$ |
| Mn-52m | 0.001 | $10^4$ | $10^4$ |
| Mn-53 | 1 | $10^7$ | $10^7$ |
| Mn-54 | 0.01 | $10^5$ | $10^5$ |
| Mn-56 | 0.001 | $10^4$ | $10^4$ |
| Fe-52 | 0.01 | $10^5$ | $10^5$ |
| Fe-55 | 1 | $10^7$ | $10^7$ |
| Fe-59 | 0.01 | $10^5$ | $10^5$ |
| Co-55 | 0.001 | $10^4$ | $10^4$ |
| Co-56 | 0.001 | $10^4$ | $10^4$ |
| Co-57 | 0.1 | $10^6$ | $10^6$ |
| Co-58 | 0.1 | $10^6$ | $10^6$ |
| Co-58m | 1 | $10^7$ | $10^7$ |
| Co-60 | 0.01 | $10^5$ | $10^5$ |
| Co-60m | 1 | $10^7$ | $10^7$ |
| Co-61 | 0.1 | $10^6$ | $10^6$ |
| Co-62m | 0.001 | $10^4$ | $10^4$ |
| Ni-59 | 1 | $10^7$ | $10^7$ |
| Ni-63 | $10^2$ | $10^9$ | $10^9$ |

| *Radionuclide* | *Concentration in Bq/ litre* | *Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)* | *Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)* |
|---|---|---|---|
| Ni-65 | 0.01 | $10^5$ | $10^5$ |
| Cu-64 | 0.1 | $10^6$ | $10^6$ |
| Zn-65 | 0.1 | $3 \times 10^5$ | $10^6$ |
| Zn-69 | 10 | $10^8$ | $10^8$ |
| Zn-69m | 0.1 | $10^6$ | $10^6$ |
| Ga-67 | 0.1 | $10^6$ | $10^6$ |
| Ga-72 | 0.001 | $10^4$ | $10^4$ |
| Ge-71 | 1 | $10^7$ | $10^7$ |
| As-73 | 10 | $10^8$ | $10^8$ |
| As-74 | 1 | $10^7$ | $10^7$ |
| As-76 | 1 | $10^7$ | $10^7$ |
| As-77 | 1 | $10^7$ | $10^7$ |
| Se-75 | 0.1 | $3 \times 10^5$ | $10^6$ |
| Br-82 | 0.1 | $10^6$ | $10^6$ |
| Rb-86 | 0.1 | $10^6$ | $10^6$ |
| Sr-85 | 0.1 | $10^6$ | $10^6$ |
| Sr-85m | 0.1 | $10^6$ | $10^6$ |
| Sr-87m | 0.1 | $10^6$ | $10^6$ |
| Sr-89 | 1 | $10^7$ | $10^7$ |
| Sr-90+ | 0.1 | $3 \times 10^5$ | $10^6$ |
| Sr-91 | 0.01 | $10^5$ | $10^5$ |
| Sr-92 | 0.01 | $10^5$ | $10^5$ |
| Y-90 | 1 | $10^7$ | $10^7$ |
| Y-91 | 1 | $10^7$ | $10^7$ |
| Y-91m | 0.01 | $10^5$ | $10^5$ |
| Y-92 | 0.1 | $10^6$ | $10^6$ |
| Y-93 | 0.1 | $10^6$ | $10^6$ |
| Zr-93 | 10 | $10^8$ | $10^8$ |
| Zr-95+ | 0.001 | $10^4$ | $10^4$ |
| Zr-97 | 0.01 | $10^5$ | $10^5$ |
| Nb-93m | 10 | $10^8$ | $10^8$ |
| Nb-94 | 0.1 | $10^6$ | $10^6$ |
| Nb-95 | 1 | $10^7$ | $10^7$ |
| Nb-97 | 1 | $10^7$ | $10^7$ |
| Nb-98 | 0.1 | $10^6$ | $10^6$ |
| Mo-90 | 0.1 | $10^6$ | $10^6$ |
| Mo-93 | 1 | $10^7$ | $10^7$ |
| Mo-99 | 0.1 | $10^6$ | $10^6$ |
| Mo-101 | 0.01 | $10^5$ | $10^5$ |
| Tc-96 | 1 | $10^7$ | $10^7$ |
| Tc-96m | $10^2$ | $10^9$ | $10^9$ |
| Tc-97 | $10^2$ | $10^9$ | $10^9$ |
| Tc-97m | 10 | $10^8$ | $10^8$ |
| Tc-99 | 10 | $10^7$ | $10^8$ |
| Tc-99m | 10 | $3 \times 10^7$ | $10^8$ |
| Ru-97 | 0.01 | $10^5$ | $10^5$ |

| *Radionuclide* | *Concentration in Bq/ litre* | *Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)* | *Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)* |
|---|---|---|---|
| Ru-103 | 0.01 | $10^5$ | $10^5$ |
| Ru-105 | 0.01 | $10^5$ | $10^5$ |
| Ru-106+ | 0.1 | $10^6$ | $10^6$ |
| Rh-103m | 10 | $10^8$ | $10^8$ |
| Rh-105 | 1 | $10^7$ | $10^7$ |
| Pd-103 | 0.1 | $10^6$ | $10^6$ |
| Pd-109 | 0.1 | $10^6$ | $10^6$ |
| Ag-105 | 1 | $10^7$ | $10^7$ |
| Ag-108m | 0.1 | $10^6$ | $10^6$ |
| Ag-110m | 0.1 | $10^6$ | $10^6$ |
| Ag-111 | 10 | $10^8$ | $10^8$ |
| Cd-109 | 1 | $10^7$ | $10^7$ |
| Cd-115 | 0.1 | $10^6$ | $10^6$ |
| Cd-115m | 1 | $10^7$ | $10^7$ |
| In-111 | 0.01 | $10^5$ | $10^5$ |
| In-113m | 0.01 | $10^5$ | $10^5$ |
| In-114m | 0.01 | $10^5$ | $10^5$ |
| In-115m | 0.01 | $10^5$ | $10^5$ |
| Sn-113 | 0.1 | $10^6$ | $10^6$ |
| Sn-125 | 0.01 | $10^5$ | $10^5$ |
| Sb-122 | 0.1 | $10^6$ | $10^6$ |
| Sb-124 | 0.1 | $10^6$ | $10^6$ |
| Sb-125 | 1 | $10^7$ | $10^7$ |
| Te-123m | 1 | $10^7$ | $10^7$ |
| Te-125m | 1 | $10^7$ | $10^7$ |
| Te-127 | 10 | $10^8$ | $10^8$ |
| Te-127m | 1 | $10^7$ | $10^7$ |
| Te-129 | 10 | $10^8$ | $10^8$ |
| Te-129m | 1 | $10^7$ | $10^7$ |
| Te-131 | 1 | $10^7$ | $10^7$ |
| Te-131m | 1 | $10^7$ | $10^7$ |
| Te-132 | 0.1 | $10^6$ | $10^6$ |
| Te-133 | 1 | $10^7$ | $10^7$ |
| Te-133m | 1 | $10^7$ | $10^7$ |
| Te-134 | 1 | $10^7$ | $10^7$ |
| I-123 | 1 | $10^7$ | $10^7$ |
| I-125 | 1 | $10^7$ | $10^7$ |
| I-126 | 0.1 | $10^6$ | $10^6$ |
| I-129 | 0.1 | $10^6$ | $10^6$ |
| I-130 | 0.1 | $10^6$ | $10^6$ |
| I-131 | 0.1 | $10^6$ | $10^6$ |
| I-132 | 0.1 | $10^6$ | $10^6$ |
| I-133 | 0.1 | $10^6$ | $10^6$ |
| I-134 | 0.1 | $10^6$ | $10^6$ |
| I-135 | 0.1 | $10^6$ | $10^6$ |
| Cs-129 | 0.01 | $10^5$ | $10^5$ |

| *Radionuclide* | *Concentration in Bq/ litre* | *Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)* | *Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)* |
|---|---|---|---|
| Cs-131 | 0.1 | $10^6$ | $10^6$ |
| Cs-132 | 0.01 | $10^5$ | $10^5$ |
| Cs-134 | 0.01 | $10^5$ | $10^5$ |
| Cs-134m | 0.1 | $10^6$ | $10^6$ |
| Cs-135 | 0.1 | $10^6$ | $10^6$ |
| Cs-136 | 0.001 | $10^4$ | $10^4$ |
| Cs-137+ | 0.01 | $10^5$ | $10^5$ |
| Cs-138 | 0.001 | $10^4$ | $10^4$ |
| Ba-131 | 0.1 | $10^6$ | $10^6$ |
| Ba-140 | 0.1 | $10^6$ | $10^6$ |
| La-140 | 0.001 | $10^4$ | $10^4$ |
| Ce-139 | 0.1 | $10^6$ | $10^6$ |
| Ce-141 | 0.1 | $10^6$ | $10^6$ |
| Ce-143 | 0.01 | $10^5$ | $10^5$ |
| Ce-144 | 0.1 | $10^6$ | $10^6$ |
| Pr-142 | 0.1 | $10^6$ | $10^6$ |
| Pr-143 | 10 | $10^8$ | $10^8$ |
| Nd-147 | 0.01 | $10^5$ | $10^5$ |
| Nd-149 | 0.01 | $10^5$ | $10^5$ |
| Pm-147 | 10 | $10^8$ | $10^8$ |
| Pm-149 | 1 | $10^7$ | $10^7$ |
| Sm-151 | $10^2$ | $10^9$ | $10^9$ |
| Sm-153 | 0.1 | $10^6$ | $10^6$ |
| Eu-152 | 0.01 | $10^5$ | $10^5$ |
| Eu-152m | 0.01 | $10^5$ | $10^5$ |
| Eu-154 | 0.01 | $10^5$ | $10^5$ |
| Eu-155 | 0.1 | $10^6$ | $10^6$ |
| Gd-153 | 0.1 | $10^6$ | $10^6$ |
| Gd-159 | 0.1 | $10^6$ | $10^6$ |
| Tb-160 | 0.01 | $10^5$ | $10^5$ |
| Dy-165 | 0.1 | $10^6$ | $10^6$ |
| Dy-166 | 0.1 | $10^6$ | $10^6$ |
| Ho-166 | 0.1 | $10^6$ | $10^6$ |
| Er-169 | 10 | $10^8$ | $10^8$ |
| Er-171 | 0.01 | $10^5$ | $10^5$ |
| Tm-170 | 1 | $10^7$ | $10^7$ |
| Tm-171 | 10 | $10^8$ | $10^8$ |
| Yb-175 | 0.1 | $10^6$ | $10^6$ |
| Lu-177 | 0.1 | $10^6$ | $10^6$ |
| Hf-181 | 0.01 | $10^5$ | $10^5$ |
| Ta-182 | 0.001 | $10^4$ | $10^4$ |
| W-181 | 0.1 | $10^6$ | $10^6$ |
| W-185 | 1 | $10^7$ | $10^7$ |
| W-187 | 0.01 | $10^5$ | $10^5$ |
| Re-186 | 1 | $10^7$ | $10^7$ |
| Re-188 | 1 | $10^7$ | $10^7$ |

| *Radionuclide* | *Concentration in Bq/ litre* | *Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)* | *Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)* |
|---|---|---|---|
| Os-185 | 0.01 | $10^5$ | $10^5$ |
| Os-191 | 0.1 | $10^6$ | $10^6$ |
| Os-191m | 1 | $10^7$ | $10^7$ |
| Os-193 | 0.1 | $10^6$ | $10^6$ |
| Ir-190 | 0.001 | $10^4$ | $10^4$ |
| Ir-192 | 0.01 | $10^5$ | $10^5$ |
| Ir-194 | 0.1 | $10^6$ | $10^6$ |
| Pt-191 | 0.01 | $10^5$ | $10^5$ |
| Pt-193m | 1 | $10^7$ | $10^7$ |
| Pt-197 | 0.1 | $10^6$ | $10^6$ |
| Pt-197m | 0.1 | $10^6$ | $10^6$ |
| Au-198 | 1 | $10^7$ | $10^7$ |
| Au-199 | 1 | $10^7$ | $10^7$ |
| Hg-197 | 1 | $10^7$ | $10^7$ |
| Hg-197m | 0.1 | $10^6$ | $10^6$ |
| Hg-203 | 0.1 | $10^6$ | $10^6$ |
| Tl-200 | 0.01 | $10^5$ | $10^5$ |
| Tl-201 | 0.1 | $10^6$ | $10^6$ |
| Tl-202 | 0.01 | $10^5$ | $10^5$ |
| Tl-204 | 0.1 | $10^6$ | $10^6$ |
| Pb-203 | 0.01 | $10^5$ | $10^5$ |
| Pb-210 | 0.001 | $10^4$ | $10^4$ |
| Pb-212 | 0.1 | $10^6$ | $10^6$ |
| Bi-206 | 0.01 | $10^5$ | $10^5$ |
| Bi-207 | 0.1 | $10^6$ | $10^6$ |
| Bi-210 | 10 | $10^8$ | $10^8$ |
| Bi-212 | 1 | $10^7$ | $10^7$ |
| Po-203 | 0.001 | $10^4$ | $10^4$ |
| Po-205 | 0.001 | $10^4$ | $10^4$ |
| Po-207 | 0.001 | $10^4$ | $10^4$ |
| Po-210 | 0.001 | $10^4$ | $10^4$ |
| At-211 | 1 | $10^7$ | $10^7$ |
| Ra-223 | 0.01 | $10^5$ | $10^5$ |
| Ra-224+ | 0.01 | $10^5$ | $10^5$ |
| Ra-225 | 0.01 | $10^5$ | $10^5$ |
| Ra-226+ | 0.01 | $10^5$ | $10^5$ |
| Ra-227 | 1 | $10^7$ | $10^7$ |
| Ra-228 | 0.01 | $10^5$ | $10^5$ |
| Ac-227 | 0.1 | $10^6$ | $10^6$ |
| Ac-228 | 0.001 | $10^4$ | $10^4$ |
| Th-226 | 0.1 | $10^6$ | $10^6$ |
| Th-227 | 0.01 | $10^5$ | $10^5$ |
| Th-228 | 1 | $10^7$ | $10^7$ |
| Th-229 | 0.01 | $10^5$ | $10^5$ |
| Th-230 | 1 | $10^7$ | $10^7$ |
| Th-231 | 0.1 | $10^6$ | $10^6$ |

| *Radionuclide* | *Concentration in Bq/ litre* | *Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)* | *Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)* |
|---|---|---|---|
| Th-232 | 1 | $10^6$ | $10^7$ |
| Th-234 | 0.1 | $10^6$ | $10^6$ |
| Pa-230 | 0.01 | $10^5$ | $10^5$ |
| Pa-231 | 0.01 | $10^5$ | $10^5$ |
| Pa-233 | 0.1 | $10^6$ | $10^6$ |
| U-230 | 0.1 | $10^6$ | $10^6$ |
| U-231 | 10 | $10^8$ | $10^8$ |
| U-232 | 0.1 | $10^6$ | $10^6$ |
| U-233 | 0.1 | $10^6$ | $10^6$ |
| U-234 | 0.1 | $10^6$ | $10^6$ |
| U-235+ | 0.1 | $10^6$ | $10^6$ |
| U-236 | 0.1 | $10^6$ | $10^6$ |
| U-237 | 10 | $10^8$ | $10^8$ |
| U-238+ | 0.1 | $10^6$ | $10^6$ |
| U-239 | 10 | $10^8$ | $10^8$ |
| U-240 | 10 | $10^8$ | $10^8$ |
| Np-237 | 0.1 | $10^6$ | $10^6$ |
| Np-239 | 1 | $10^7$ | $10^7$ |
| Np-240 | 0.1 | $10^6$ | $10^6$ |
| Pu-234 | 0.01 | $10^5$ | $10^5$ |
| Pu-235 | 0.01 | $10^5$ | $10^5$ |
| Pu-236 | 1 | $10^7$ | $10^7$ |
| Pu-237 | 0.1 | $10^6$ | $10^6$ |
| Pu-238 | 0.1 | $10^6$ | $10^6$ |
| Pu-239 | 0.1 | $10^6$ | $10^6$ |
| Pu-240 | 0.1 | $10^6$ | $10^6$ |
| Pu-241 | 10 | $10^8$ | $10^8$ |
| Pu-242 | 0.1 | $10^6$ | $10^6$ |
| Pu-243 | 0.1 | $10^6$ | $10^6$ |
| Pu-244 | 0.1 | $10^6$ | $10^6$ |
| Am-241 | 0.1 | $10^6$ | $10^6$ |
| Am-242 | 0.1 | $10^6$ | $10^6$ |
| Am-242m | 0.1 | $10^6$ | $10^6$ |
| Am-243 | 0.1 | $10^6$ | $10^6$ |
| Cm-242 | 1 | $10^7$ | $10^7$ |
| Cm-243 | 0.1 | $10^6$ | $10^6$ |
| Cm-244 | 0.1 | $10^6$ | $10^6$ |
| Cm-245 | 0.01 | $10^5$ | $10^5$ |
| Cm-246 | 0.1 | $10^6$ | $10^6$ |
| Cm-247 | 0.01 | $10^5$ | $10^5$ |
| Cm-248 | 0.1 | $10^6$ | $10^6$ |
| Bk-249 | $10^2$ | $10^9$ | $10^9$ |
| Cf-246 | 1 | $10^7$ | $10^7$ |
| Cf-248 | 1 | $10^7$ | $10^7$ |
| Cf-249 | 0.01 | $10^5$ | $10^5$ |
| Cf-250 | 0.1 | $10^6$ | $10^6$ |

| *Radionuclide* | *Concentration in Bq/ litre* | *Maximum annual quantity of radionuclides to a relevant sewer (Bq/ year)* | *Maximum annual quantity of radionuclides directly into a relevant river or the sea (Bq/ year)* |
|---|---|---|---|
| Cf-251 | 0.01 | $10^5$ | $10^5$ |
| Cf-252 | 0.1 | $10^6$ | $10^6$ |
| Cf-253 | 10 | $10^8$ | $10^8$ |
| Cf-254 | 0.0001 | $10^3$ | $10^3$ |
| Es-253 | 1 | $10^7$ | $10^7$ |
| Es-254 | 0.1 | $10^6$ | $10^6$ |
| Es-254m | 0.01 | $10^5$ | $10^5$ |
| Fm-254 | 1 | $10^7$ | $10^7$ |
| Fm-255 | 0.1 | $10^6$ | $10^6$ |
| Any other radionuclide that is not of natural terrestrial or cosmic origin | 0.0001 or that concentration which gives rise to a dose to a member of the public of 10 microsieverts per year calculated in accordance with the methodology used to calculate other concentrations in this table(**a**). | $10^3$ or that quantity which corresponds to 3,000$m^3$ of aqueous radioactive waste up to the appropriate concentration as calculated in accordance with column 2. | $10^3$ or that quantity which corresponds to 10,000$m^3$ of aqueous radioactive waste up to the appropriate concentration as calculated in accordance with column 2. |

(2) The summation rule in respect of column 2 of Table 7 is the sum of the quotients A/B where—

(a) "A" means the concentration in Bq/ litre of each radionuclide listed in column 1 of Table 7 that is present in aqueous waste which is not described in a row in column 1 of Table 6, and

(b) "B" means the concentration of that radionuclide specified in column 2 of Table 7.

(3) The summation rule in respect of column 3 of Table 7 is the sum of the quotients C/D where—

(a) "C" means the quantity in Bq of each radionuclide listed in column 1 of Table 7 that is present in the aqueous waste which is not described in a row in column 1 of Table 6 which is disposed of in the year, and

(b) "D" means the quantity of that radionuclide specified in column 3 of Table 7.

(4) The summation rule in respect of column 4 of Table 7 is the sum of the quotients C/E where—

(a) "C" means the quantity in Bq of each radionuclide listed in column 1 of Table 7 that is present in the aqueous waste which is not described in a row in column 1 of Table 6 which is disposed of in the year, and

(b) "E" means the quantity of that radionuclide specified in column 4 of Table 7.

**Interpretation of this Section**

**29.** In this Section, where any radionuclide carries the suffix "+" or "sec"—

(**a**) The concentrations in this table were calculated using methods adopted by the Health Protection Agency in their document HPA-CRCE-005 - Derivation of Liquid Exclusion or Exemption Levels to Support the RSA93 Exemption Order Review, published in Chilton, Oxfordshire in August 2010 (ISBN 0-978-85951-673-0).

(a) that radionuclide represents the parent radionuclide in secular equilibrium with the corresponding daughter radionuclides which are identified in column 2 of Table 8 adjacent to that parent radionuclide, and

(b) a concentration or activity value given in respect of such a parent radionuclide is the value for the parent radionuclide alone, but already takes into account the daughter radionuclides in column 2 that are present.

**Table 8**

**30.** The Table 8 referred to in paragraph 29 is—

**Table 8**

**Radionuclides in secular equilibrium**

| *Parent radionuclide* | *Daughter radionuclides* |
|---|---|
| Sr-90+ | Y-90 |
| Zr-93+ | Nb-93m |
| Zr-95+ | Nb-95 |
| Zr-97+ | Nb-97 |
| Ru-106+ | Rh-106 |
| Ag-108m+ | Ag-108 |
| Cs-137+ | Ba-137m |
| Ba-140+ | La-140 |
| Ce-144+ | Pr-144 |
| Pb-210+ | Bi-210, Po-210 |
| Pb-212+ | Bi-212, Tl-208, Po-212 |
| Bi-212+ | Tl-208, Po-212 |
| Rn-220+ | Po-216 |
| Rn-222+ | Po-218, Pb-214, Bi-214, Po-214 |
| Ra-223+ | Rn-219, Po-215, Pb-211, Bi-211, Tl-207 |
| Ra-224+ | Where Ra-224+ is referred to in Table 5: Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212<br>Where Ra-224+ is referred to in Table 7: Pb-212 |
| Ra-226+ | Where Ra-226+ is referred to in Table 5: Rn-222, Po-218, Pb-214, Bi-214, Pb-210, Bi-210, Po-210, Po-214<br>Where Ra-226+ is referred to in Table 7: Rn-222, Po-218, Pb-214, Bi-214, Po-214 |
| Ra-228+ | Ac-228 |
| Th-226+ | Ra-222, Rn-218, Po-214 |
| Th-228+ | Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208 |
| Th-229+ | Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209 |
| Th-232 sec | Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208 |
| Th-234+ | Pa-234m |
| U-230+ | Th-226, Ra-222, Rn-218, Po-214 |
| U-232+ | Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212 |
| U-235+ | Th-231 |
| U-238+ | Th-234, Pa-234m, Pa-234 |
| U-238 sec | Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn- |

| *Parent radionuclide* | *Daughter radionuclides* |
|---|---|
| | 222, Po-218, Pb-214, Bi-214, Pb-210, Bi-210, Po-210, Po-214 |
| U-240+ | Np-240 |
| Np-237+ | Pa-233 |
| Am-242m+ | Am-242 |
| Am-243+ | Np-239 |

# PART 7

## Radioactivity to be disregarded

**Application**

**1.**—(1) For the purposes of the matters referred to in sub-paragraph (2), no account is to be taken of any radioactivity possessed by a substance or article or by a part of any premises.

(2) The matters are—

(a) the operation of a provision to which this Part applies,

(b) the exercise of a power conferred by, or for the enforcement of, a provision to which this Part applies, and

(c) the performance of a duty imposed by, or for the enforcement of, a provision to which this Part applies.

(3) This Part applies to a provision—

(a) specified in paragraph 2,

(b) contained in an instrument made under a provision so specified,

(c) which has effect by virtue of a provision so specified, or

(d) which extends or applies a provision so specified.

(4) This Part also applies to a provision of a local enactment (whenever passed or made and however expressed) insofar as it—

(a) prohibits or restricts—

(i) the disposal or accumulation of waste,

(ii) the disposal or accumulation of a substance which is or causes a nuisance, or

(iii) a disposal or accumulation which causes pollution, or

(b) confers a power, or imposes a duty, on a public authority or an officer of a public authority to take action to prevent, restrict or abate a disposal or accumulation of a description given in paragraph (a).

(5) In sub-paragraph (4)—

(a) a reference to "disposal" in relation to a provision to which this Part applies, means—

(i) the discharge or deposit of a substance, or

(ii) the allowing of a substance to escape or to enter a stream or other place,

as may be mentioned in that provision, and

(b) "local enactment" means—

(i) a local or private Act,

(ii) an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure, or

(iii) an order confirmed by the National Assembly for Wales or brought into operation in accordance with special procedure in the Assembly.

**Provisions of enactments**

**2.**—(1) The provisions referred to in paragraph 1(3) are those listed in Table 9 below.

(2) References to provisions of the 1991 Act have effect subject to the power conferred by section 98 of that Act(**a**).

**Table 9**

**Statutory provisions in respect of which radioactivity is to be disregarded**

| *Act* | *Provisions* |
|---|---|
| Public Health Act 1936 | Sections 48, 79, 81, 82, 141, 259 and 261(**b**). |
| Water Act 1945 | Section 18(**c**) so far as it continues to have effect by virtue of Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991(**d**) or by virtue of provisions of the Control of Pollution Act 1974(**e**) not having been brought into force. |
| Salmon and Freshwater Fisheries Act 1975 | Section 4(**f**). |
| Building Act 1984 | Section 59(**g**). |
| The Planning (Hazardous Substances) Act 1990(**h**) | The whole Act. |
| The 1990 Act | Part 3(**i**) (subject to regulation 47(3) of the Waste (England and Wales) Regulations 2011(**j**)). |
| Water Industry Act 1991 | Sections 72, 111 and 113(6)(**k**).<br>In Part 4, Chapter 3(**l**). |

(**a**) Section 98 was amended by S.I. 2010/675.

(**b**) 1936 c. 49; section 48 was amended by paragraph 2(1) of Schedule 1 and Part 1 of Schedule 3 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60). Section 79 is prospectively repealed by paragraph 7 of Schedule 3, and Schedule 4, to the Control of Pollution Act 1974 (c. 40) as from a day to be appointed. Section 82 was amended by paragraph 18(2) of Part 1 of Schedule 11 to the London Government Act 1963 (c. 33). Section 141 was amended by paragraph 4(2) of Schedule 15 to the 1990 Act. Section 259 was amended by Schedule 4 to the Control of Pollution Act 1974 and paragraph 4(3) of Schedule 15 to the 1990 Act.

(**c**) 1945 c. 42; section 18 is prospectively repealed by Schedule 4 to the Control of Pollution Act 1974 as from a day to be appointed.

(**d**) 1991 c. 60; Schedule 2 was amended by paragraph 29(3) of Part 2 of Schedule 7 to the Water Act 2003 (c. 37).

(**e**) 1974 c. 40.

(**f**) 1975 c. 51; section 4 was amended by section 233 (2)(a) of, and Part 5(B) of Schedule 22 to, the Marine and Coastal Access Act 2009 (c. 23), and by S.I. 2013/755 (W. 90).

(**g**) 1984 c. 55; section 59 was amended by Part 1 of Schedule 6 to the Airports Act 1986 (c. 31), section 5(b) of, and the Schedule to, the Sustainable and Secure Buildings Act 2004 (c. 22) and by S.I. 2001/3335, 4050, 2002/440 and 2011/2491. It is prospectively amended by paragraph 26(3) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29) from a date to be appointed.

(**h**) 1990 c. 10.

(**i**) Part 3 was amended by Part 1 of Schedule 16 to the 1990 Act, paragraph 4 of Schedule 4, and Schedule 6, to the Clean Air Act 1993 (c. 11), sections 2 to 5 and 10 of the Noise and Statutory Nuisance Act 1993 (c. 40), paragraph 17(5) of Schedule 9 to the Local Government (Wales) Act 1994, paragraph 27 of Schedule 3 to the Vehicle Excise and Registration Act 1994 (c. 22), paragraph 89(2) and (3) of Schedule 22, and Schedule 24, to the 1995 Act, paragraphs 3 and 6 of Schedule 2 to the Pollution Prevention and Control Act 1999 (c. 24), and sections 86, 101, 102 and 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), and by S.I. 2000/1973 and 2015/664. It is prospectively amended by Schedule 3 to the Pollution Prevention and Control Act 1999 from a date to be appointed.

(**j**) S.I. 2011/988, to which there are amendments not relevant to these Regulations.

(**k**) 1991 c. 56; section 72 was amended by paragraph 21 of Schedule 8 to the Water Act 2003 and paragraph 69 of Schedule 7 to the Water Act 2014 (c. 21). Section 111 was amended by paragraph 39(2) of Schedule 7 to the Water Act 2003.

(**l**) Chapter 3 of Part 4 was amended by paragraph 89(a) of Schedule 13 to the Merchant Shipping Act 1995 (c. 21), paragraphs 105 to 113 of Schedule 22, and Schedule 24, to the 1995 Act, section 36(2) of the Water Act 2003, and paragraph 1(2) of Part 1 of Schedule 11 to the Constitutional Reform Act 2005 (c. 4), and by S.I. 2000/1973, 2007/3538, 2010/675, 2011/1043 and 2013/755 (W. 90). It is prospectively amended by Schedule 3 to the Pollution Prevention and Control Act 1999, by sections 88(1), (3) and (4) and 89 of, and Part 3 of Schedule 9 to, the Water Act 2003, and by section 66(2) of the Environment (Wales) Act 2016 (anaw. 3) from a date to be appointed.

| *Act* | *Provisions* |
|---|---|
| | In Schedule 8, paragraphs 2 to 4(**a**) so far as they re-enact provisions of sections 43 and 44 of the Control of Pollution Act 1974(**b**). |
| The 1991 Act | Sections 82, 84, 92, 93, 161-161D, 190, 202 and 203(**c**).<br>In Schedule 25, paragraph 6(**d**). |
| Clean Air Act 1993(**e**) | Section 16. |
| Marine and Coastal Access Act 2009(**f**) | Section 155. |

# SCHEDULE 24

Regulation 35(1)

## Efficiency in heating and cooling energy: Energy Efficiency Directive

### Interpretation

**1.**—(1) In this Schedule—

"cogeneration" means the simultaneous generation in one process of thermal energy and electrical or mechanical energy;

"connection distance" means—

(a) in the case of a hot water link, the thermal capacity in kilowatts of the source or demand, whichever is smaller, multiplied by 0.0038, or

(b) in the case of a steam heat link, the thermal capacity in kilowatts of the source or demand, whichever is smaller, multiplied by 0.0012,

expressed in kilometres;

"cost-benefit analysis" means a cost-benefit analysis in accordance with Part 2 to Annex IX to the Energy Efficiency Directive;

"economically justified demand" means demand that does not exceed the needs for heating or cooling and which would otherwise be satisfied at market conditions by energy generation processes other than cogeneration;

"high-efficiency cogeneration" means cogeneration meeting the criteria laid down in Annex II to the Energy Efficiency Directive;

"installation" means—

(a) a stationary technical unit where one or more activities listed in Part 2 of Schedule 1 are carried on, or

(**a**) Paragraph 2 of Schedule 8 is prospectively amended by paragraph 123 of Schedule 7 to the Water Act 2014 from a date to be appointed. Paragraphs 3 and 4 were amended by section 36(2) of the Water Act 2003.

(**b**) Section 43 was repealed by Part 1 of Schedule 3 to the Water Consolidation (Consequential Provisions) Act 1991. Section 44 was repealed by Part 1 of Schedule 27 to the Water Act 1989 (c. 15) and Part 1 of Schedule 3 to the Water Consolidation (Consequential Provisions) Act 1991.

(**c**) Section 84 was amended by S.I. 2010/675 and 2013/755 (W. 90). Section 92 was amended by paragraph 144 of Schedule 22 to the 1995 Act, and by S.I. 2010/675 and 2013/755 (W. 90). Section 93 was amended by S.I. 2009/3104 and 2013/755 (W. 90). Section 161 was substituted, together with sections 161ZA-161ZC, 161A, 161AA, 161AB, by S.I. 2009/3104. Sections 161, 161ZA, 161ZB, 161A and 161AA were amended by S.I. 2013/755 (W. 90). Sections 161ZC and 161AB were amended by S.I. 2010/675 and 2013/755 (W. 90). Sections 161B to 161D were inserted by paragraph 162 of Schedule 22 to the 1995 Act. Section 161B was amended by S.I. 2007/3538 and 2013/755 (W. 90). Sections 161D was amended by S.I. 2013/755 (W. 90) and 2015/664. Section 190 was amended by paragraph 169 of Schedule 22, and Schedule 24, to the 1995 Act, and by S.I. 2010/675 and 2013/755 (W. 90). Section 202 was amended by paragraph 172 of Schedule 22, and Schedule 24, to the 1995 Act. Section 203 was amended by paragraph 128 of Schedule 22 to the 1995 Act, paragraph 53(2) of Schedule 8 to the Water Act 2003, and paragraph 125 of Schedule 7 to the Water Act 2014, and by S.I 2007/3538.

(**d**) Paragraph 6 of Schedule 25 was amended by paragraph 26 of Schedule 15 to the 1995 Act, section 224 of, and paragraph 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the Marine and Coastal Access Act 2009, and by S.I. 2013/755 (W. 90).

(**e**) 1993 c. 11.

(**f**) 2009 c. 23.

(b) a small waste incineration plant;

"relevant installation" means an installation carrying on—

(a) an activity described in Part A(1) of Section 1.1 of Part 2 of Schedule 1,

(b) an activity described in Part A(1) of Section 5.1 of Part 2 of Schedule 1,

(c) an activity described in paragraph (a) of Part B of Section 1.1 of Part 2 of Schedule 1, or

(d) a small waste incineration plant operation;

"substantially refurbished" means, subject to sub-paragraph (2)(e), a refurbishment the cost of which exceeds 50% of the investment cost for a new comparable energy plant.

(2) For the purposes of this Schedule—

(a) the definition of "offshore platform" in paragraph 3 of Part A(1) of Section 1.1 of Part 2 of Schedule 1 also includes any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs,

(b) the definition of "petroleum" in paragraph 4 of Part A(1) of Section 1.1 of Part 2 of Schedule 1 also includes coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation,

(c) a reference to an installation means an installation which has a net rated thermal input exceeding 20 megawatts,

(d) where two or more small waste incineration plants falling within Schedule 13 with an aggregate net thermal input exceeding 20 megawatts are operated on the same site by the same operator, those small waste incineration plants must be treated as a single installation with a rated thermal input exceeding 20 megawatts, and

(e) refurbishment does not include the fitting of equipment to carry out the activity described in Part A(1) of Section 6.10 of Part 2 of Schedule 1.

**Electricity generating installations**

**2.**—(1) An application for the grant of an environmental permit under regulation 13(1) for a relevant installation which generates electricity must contain a cost-benefit analysis which assesses the cost and benefits of providing for the operation of the installation as a high-efficiency cogeneration installation.

(2) The regulator must exercise its relevant functions to ensure that an application for a variation of an environmental permit under regulation 20(1) is made before the energy plant of a relevant installation which generates electricity is substantially refurbished.

(3) The regulator must ensure that an application for a variation of an environmental permit required by sub-paragraph (2) contains (in addition to the information required by paragraph 2(1)(b) of Schedule 5) a cost-benefit analysis which assesses the cost and benefits of converting the relevant installation to high-efficiency cogeneration.

(4) The requirement for a cost-benefit analysis in sub-paragraph (1) or (3) does not apply to peak load and back-up electricity generating relevant installations for which the application for the grant or a variation of an environmental permit states that operation under 1,500 operating hours per year as a rolling average over a period of 5 years is planned.

(5) In the case of a relevant installation to which sub-paragraph (4) applies, the regulator must ensure that, if an environmental permit is granted or varied, it includes conditions ensuring that the operating hours for the installation remain within that constraint.

**Installations generating waste heat**

**3.**—(1) An application for the grant of an environmental permit under regulation 13(1) for an installation generating waste heat at a useful temperature level, other than a relevant installation falling within paragraph 2(1), must contain a cost-benefit analysis.

(2) The regulator must exercise its relevant functions to ensure that an application for a variation of an environmental permit under regulation 20(1) is made before the energy plant of an installation generating waste heat at a useful temperature level, other than a relevant installation falling within paragraph 2(2), is substantially refurbished.

(3) The regulator must ensure that an application for a variation of an environmental permit under sub-paragraph (2) contains (in addition to the information required by paragraph 2(1)(b) of Schedule 5) a cost-benefit analysis.

(4) The cost-benefit analysis required by sub-paragraphs (1) and (3) must include an assessment of the cost and benefits of—

(a) utilising the waste heat to satisfy economically justified demand, including through cogeneration, and

(b) the connection of that installation to a district heating and cooling network.

**Heating and cooling networks**

**4.**—(1) An application for the grant of an environmental permit under regulation 13(1) for a relevant installation which forms part of a new district heating and cooling network or existing district heating or cooling network, must contain a cost-benefit analysis.

(2) The regulator must exercise its relevant functions to ensure that an application for a variation of an environmental permit under regulation 20(1) is made before the energy plant of a relevant installation which forms part of a district heating and cooling network is substantially refurbished.

(3) An application for the variation of an environmental permit required by sub-paragraph (2) must contain (in addition to the information required by paragraph 2(1)(b) of Schedule 5) a cost-benefit analysis.

(4) The cost-benefit analysis required by sub-paragraphs (1) and (3) must include an assessment of the cost and benefits of utilising the waste heat from nearby installations.

**Thresholds**

**5.** Paragraphs 3 and 4 do not apply to an installation, except an installation which forms part of a district cooling network, with any of the following—

(a) available waste heat of 100 kilowatts or less;

(b) available waste heat—

(i) greater than 100 kilowatts as hot water or steam, where there is no hot water heat demand greater than 100 kilowatts within the search radius from the installation as set out in the table below, and located within the connection distance from the centre of the installation, or

(ii) greater than 500 kilowatts as steam where there is no steam-based heat demand greater than 500 kilowatts and no hot water heat demand greater than 100 kilowatts within the search radius from the centre of the source installation as set out in the table below, and located within the connection distance from the centre of the source installation;

(c) a heat demand of—

(i) 100 kilowatts or less for a hot water heat demand, or

(ii) 500 kilowatts or less for a steam-based heat demand;

(d) a hot water heat demand greater than 100 kilowatts, with no source of available waste heat greater than 100 kilowatts within the search radius from the centre of the demand installation as set out in the table below, and located within the connection distance from the centre of the demand installation;

(e) a steam-based heat demand greater than 500 kilowatts, with no source of steam-based waste heat greater than 500 kilowatts within the search radius from the centre of the

installation as set out in the table below, and located within the connection distance from the centre of the demand installation.

**Search radius**

| *Installation type* | *Thermal capacity of heat source/demand* | *Search radius (kilometres), measured from the centre of the installation* |
|---|---|---|
| Hot water demand | >100 kilowatts and <3.9 megawatts | 0.0038 x H, where H = thermal capacity in kilowatts |
| | ≥ 3.9 megawatts | 15 |
| Steam demand | >500 kilowatts and <12.5 megawatts | 0.0012 x H, where H = thermal capacity in kilowatts |
| | ≥ 12.5 megawatts | 15 |
| Waste heat source (hot water or steam) | >100 kilowatts and <3.9 megawatts | 0.0038 x H, where H = thermal capacity in kilowatts |
| | ≥ 3.9 megawatts | 15 |

**Determination of applications**

**6.**—(1) When considering an application for an environmental permit, or for a variation of an environmental permit, in accordance with this Schedule, the regulator must take into account—

(a) the outcome of the cost-benefit analysis carried out in accordance with this Schedule, and

(b) the outcome of any comprehensive assessment carried out in accordance with Article 14(1) of the Energy Efficiency Directive.

(2) Subject to sub-paragraph (4), where a cost-benefit analysis carried out in accordance with paragraphs 2(1), 2(3) and 3(4) shows that benefits exceed costs, the regulator must ensure that any environmental permit that is granted or varied includes appropriate conditions that will ensure the operation of the installation in a manner shown by that analysis to be cost beneficial.

(3) Subject to sub-paragraph (4), where a cost-benefit analysis carried out in accordance with paragraph 4(4) shows that benefits exceed costs, the regulator must ensure that any environmental permit that is granted or varied contains appropriate conditions that will ensure the operation of the installation, in conjunction with the utilisation of the waste heat from nearby installations, in a manner shown by that analysis to be cost beneficial.

(4) Where the cost-benefit analysis carried out in accordance with paragraph 2(1), 2(3), 3(4) or 4(4) shows that benefits exceed costs, the requirement to impose appropriate conditions in accordance with sub-paragraphs (2) and (3) does not apply if, in individual cases, the regulator decides that there are imperative reasons of law, ownership or finance for them not to apply.

(5) The regulator must within 2 months of its decision under sub-paragraph (4) submit a reasoned notification of that decision to the appropriate authority.

(6) This Schedule does not apply to—

(a) installations that need to be located close to a geological storage site approved under Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide(**a**);

(b) any relevant installation within a nuclear site, within the meaning given in paragraph 1 of Part 2 of Schedule 23, and which is dedicated to the production of nuclear power;

(c) mobile plant.

(7) Nothing in this Schedule affects the application of the Industrial Emissions Directive to installations.

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(**a**) OJ No L 140, 5.6.2009, p 114, as last amended by Directive 2011/92/EU (OJ No L 26, 28.1.2012, p 1).

**Aggregation of rated thermal input – existing installations**

**7.**—(1) This paragraph applies to a Part B installation that is a regulated facility solely as a result of the aggregation of the net rated thermal input of two or more appliances in accordance with paragraph 2 of Part B of Section 1.1 of Part 2 of Schedule 1.

(2) A Part B installation that was in operation immediately prior to 21st March 2015 is taken to be an exempt facility for the purposes of regulation 8(2).

(3) Sub-paragraph (2) ceases to apply to a Part B installation (so that it is no longer taken to be an exempt facility) if, after 21st March 2015, the energy plant of the Part B installation is substantially refurbished.

**Existing applications for the grant or variation of an environmental permit**

**8.**—(1) This Schedule does not apply to an existing application.

(2) In sub-paragraph (1), "existing application" mean a duly made application received by the regulator prior to 21st March 2015—

(a) for the grant of an environmental permit pursuant to regulation 13, or

(b) for the variation of an environmental permit pursuant to regulation 20(1).

# SCHEDULE 25

Regulation 35(1)

## Flood risk activities and excluded flood risk activities

## PART 1

### Flood risk activities

**Application**

**1.** This Schedule applies in relation to every flood risk activity.

**Interpretation**

**2.**—(1) In this Schedule—

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

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

"emergency" means an occurrence which presents a risk of—

(a) serious flooding;

(b) serious detrimental impact on drainage;

(c) serious harm to the environment;

"flood defence structure" means any permanent works constructed, operated or maintained by the regulator for the purposes of managing flood risk;

"land" includes—

(a) water;

(b) land covered by water;

---

(**a**) The definition of "drainage" was amended by section 100(1) of, and Schedule 24 to, the 1995 Act.

"main river" has the meaning given in section 113(1) of the 1991 Act(**a**);

"navigation authority" means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

"non-tidal main river" means any part of a main river that is not a tidal main river;

"tidal main river" means that part of a main river downstream of the normal tidal limit;

"unauthorised flood risk activity" means a flood risk activity which is not authorised by an environmental permit but excluding any exempt or excluded flood risk activities;

"watercourse" has the meaning given in section 221 of the 1991 Act(**b**), as read with section 113(1) of that Act.

(2) In this Schedule—

(a) except in the definition of "sea defence" in paragraph 3, "bank" means any bank, berm, wall or embankment that adjoins or confines any watercourse and includes the side of the bank that stretches down to the mean low-water mark (in the case of a watercourse in which tidal waters flow) or to the bed of the watercourse (in any other case);

(b) for the purposes of paragraph (a), in the case of a watercourse in which tidal waters flow, the bank includes any wall or embankment constructed or maintained by the regulator in the sea or an estuary for the purposes of or in connection with a river;

(c) any reference to a distance of 8 metres or 16 metres from a river is a reference to that distance as measured horizontally from the foot of the bank on the landward side of the river;

(d) any reference to a distance of 8 metres or 16 metres from any flood defence structure or culvert is a reference to that distance as measured from the foot of the flood defence structure or from the outside edge of the culvert, as the case may be.

**Meaning of "flood risk activity"**

**3.**—(1) Subject to sub-paragraph (2), a "flood risk activity" means—

(a) erecting any structure (whether temporary or permanent) in, over or under a main river;

(b) the carrying out of any work of alteration or repair on any structure (whether temporary or permanent) in, over or under a main river if the work is likely to affect the flow of water in the main river or to affect any drainage work;

(c) erecting or altering any structure (whether temporary or permanent) designed to contain or divert the floodwaters of any part of a main river;

(d) any dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a main river (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging and desilting;

(e) any activity which is likely to divert the direction of the flow of water into or out of a main river or alter the level of water in a main river;

(f) any activity within 8 metres of a non-tidal main river (or within 8 metres of any flood defence structure or culvert on that river) or any activity within 16 metres of a tidal main river (or within 16 metres of any flood defence structure or culvert on that river) which is likely to—

(i) cause damage to or endanger the stability of the banks of that river or of any culvert,

(ii) cause damage to any river control works,

(iii) alter, reconstruct, discontinue or remove any river control works,

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(**a**) The definition of "main river" was amended by section 59(3) of the Water Act 2014 (c. 21).

(**b**) The definition of "watercourse" was amended by paragraph 128 of Schedule 22 to the 1995 Act, section 59(4)(b) of the Water Act 2014, and by S.I. 2013/755 (W. 90).

(iv) divert or obstruct flood waters or affect the drainage of that river, or

(v) interfere with the regulator's access to or along that river;

(g) any activity (other than an allowed activity) on a flood plain that is—

(i) more than 8 metres from a non-tidal main river or more than 16 metres from a tidal main river, or

(ii) more than 8 metres from any flood defence structure or culvert on a non-tidal main river or more than 16 metres from any flood defence structure or culvert on a tidal main river,

which is likely to divert or obstruct floodwaters, to damage any river control works or to affect drainage;

(h) any activity within 16 metres of the base of a sea defence which is likely to—

(i) endanger the stability of, cause damage to or reduce the effectiveness of that sea defence, or

(ii) interfere with the regulator's access to or along that sea defence;

(i) any activity within 8 metres of the base of a remote defence which is likely to—

(i) endanger the stability of, cause damage to or reduce the effectiveness of that defence, or

(ii) interfere with the regulator's access to or along that defence;

(j) any quarrying or excavation within 16 metres of the base of a remote defence which is likely to cause damage to or endanger the stability of that defence;

(k) any quarrying or excavation within 16 metres of a main river or any flood defence structure or culvert on that river which is likely to cause damage to or endanger the stability of the banks of that river.

(2) The following paragraphs of sub-paragraph (1) are excluded from the definition of flood risk activity in respect of a statutory function to which this sub-paragraph applies—

(a) in respect of England, paragraphs (d) to (k);

(b) in respect of Wales, paragraphs (e) to (k).

(3) Sub-paragraph (2) applies to a statutory function—

(a) exercisable by a person carrying on an undertaking referred to in paragraph 1(4) of Schedule 22 to the 1991 Act, as read with sub-paragraphs (4A) and (5) of that paragraph(**a**), or

(b) relating to the management of flood risk exercisable by a risk management authority within the meaning of section 6(13) of the Flood and Water Management Act 2010(**b**).

(4) In this paragraph—

"allowed activity" means—

(a) any activity that has been granted planning permission by a local planning authority or the Secretary of State under the Town and Country Planning Act 1990(**c**), a certificate under section 191 of that Act or an established use certificate under section 192 of that Act, as originally enacted(**d**), which continues to have effect for the purposes of subsection (4) of section 192, or

(b) the construction of hay or straw stacks, clamps or manure (or similar) heaps, in accordance with accepted agricultural practice;

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(**a**) Paragraph 1 of Schedule 22 was amended by paragraph 43(1) of Schedule 9 to the Coal Industry Act 1994 (c. 21), paragraph 15 of Schedule 5 to the Transport Act 2000 (c. 38), paragraph 114(2) of Schedule 17 to the Communications Act 2003 (c. 21), paragraph 18 of Schedule 19 to the Energy Act 2004 (c. 20), paragraph 138 of Part 3 of Schedule 12 to the Postal Services Act 2011 (c. 5), and by S.I. 2001/1149 and 2013/755 (W. 90).

(**b**) 2010 c.29; section 6(13) was amended by S.I. 2013/755 (W. 90).

(**c**) 1990 c. 8.

(**d**) Sections 191 and 192 were substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34).

"conservancy authority" means any person who has a duty or power under any enactment to conserve, maintain or improve the navigation of a tidal water and is not a navigation or harbour authority;

"culvert" means a covered channel or pipe which prevents the obstruction of a main river or drainage path by an artificial construction;

"harbour authority" has the meaning given in section 313 of the Merchant Shipping Act 1995(**a**), other than a navigation authority;

"remote defence" means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river, other than any berm, wall or embankment which is a bank within the meaning of paragraph 2(2);

"river control works" means any structure or appliance used for measuring or regulating—

(a) the level of water in a main river,

(b) the flow of water in, into or out of, a main river, or

(c) the drawing of water from, or the delivering of water into, a main river,

and includes any sluices, flood gates, lashers, valves, paddles, penstocks, locks, weirs, dams, pumps, pumping machinery and pipes;

"sea defence" includes any bank, wall, embankment (and any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the regulator's area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949(**b**) or by any local authority or any navigation, harbour or conservancy authority.

**Excluded flood risk activities**

**4.** An "excluded flood risk activity" means a flood risk activity that—

(a) falls within a description in Part 2 of this Schedule, and

(b) satisfies the conditions specified in Part 2 of this Schedule for an activity of that description.

**Exercise of relevant functions**

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

(a) managing flood risk;

(b) managing impacts on land drainage;

(c) environmental protection.

**Conditions for operation and maintenance of structures and works**

**6.** Without prejudice to its powers to grant an application subject to such conditions as it sees fit, the regulator may grant an application subject to such conditions relating to—

(a) the operation and maintenance of such structure or works as the regulator considers to be necessary—

(i) to manage impacts on land drainage,

(**a**) 1995 c. 21; the definition of "harbour authority" was substituted by paragraph 19(2)(a) of Schedule 6 to the Merchant Shipping and Maritime Security Act 1997 (c. 28).
(**b**) 1949 c. 74.

(ii) to manage flood risk, or

(iii) to secure environmental protection;

(b) access by the regulator to any structure, works or watercourse, including access to any surrounding land where this is necessary to access the structure, works or watercourse.

**Emergency works notice**

**7.**—(1) In an emergency, the regulator may serve an emergency works notice on the operator, owner or occupier of the premises or any other person responsible for a flood risk activity ("A").

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

(3) An emergency works notice may require A—

(a) to remove any specified structure in accordance with requirements set out in the notice;

(b) to modify any specified structure in accordance with requirements set out in the notice;

(c) to carry on the activity in accordance with requirements set out in the notice;

(d) to remedy the environmental effects caused by the activity in accordance with requirements set out in the notice;

(e) not to carry on the activity without an environmental permit, unless the activity is an excluded or exempt activity.

(4) An emergency works notice must—

(a) specify the period within which A must comply with the notice requirements;

(b) set out the rights of appeal that A has under regulation 31(1)(f).

(5) In sub-paragraph (3)(d), "environmental effects" means—

(a) flooding or risk of flooding;

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

(c) detrimental impact on drainage or risk of detrimental impact on drainage.

**Remediation notice**

**8.**—(1) Where the regulator considers that an unauthorised flood risk activity is being or has been carried on, it may serve a remediation notice on the operator, owner or occupier of the premises or any other person responsible for the unauthorised flood risk activity ("A").

(2) The remediation notice must—

(a) state the regulator's view under sub-paragraph (1);

(b) specify the steps that must be taken by A;

(c) specify the period within which those steps must be taken;

(d) set out the rights of appeal that A has under regulation 31(1)(f).

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

(a) to cease carrying on the activity;

(b) to carry on the activity in a particular manner;

(c) to remove or reduce flood risk;

(d) to remedy detrimental impact on drainage;

(e) to remedy harm to the environment;

(f) to restore the main river to its previous condition or a condition otherwise specified in the notice.

(4) Where—

(a) the regulator has served a notice on A, but A does not comply with the remediation notice within the time specified in the notice, or

(b) the regulator determines that it is not possible or practical to serve a remediation notice on A,

the regulator may serve a remediation notice on any other person who appears to the regulator to have the necessary authority to take the steps specified in the notice.

(5) Where a notice is served under sub-paragraph (4), sub-paragraphs (2) and (3) apply as if the references in those sub-paragraphs to "A" are references to the person on whom a notice under sub-paragraph (4) is served.

**Regulator's power to take steps to remove and remedy etc.**

**9.**—(1) Subject to paragraph 10(4) and (5), the regulator may take steps to—

(a) remove, alter or pull down any works carried out pursuant to an unauthorised flood risk activity;

(b) remedy the effects caused by an unauthorised flood risk activity.

(2) Before taking any steps under sub-paragraph (1) the regulator must serve a notice of intent on the person responsible for the unauthorised flood risk activity ("A").

(3) The requirement to serve a notice of intent under sub-paragraph (2) does not apply where the regulator—

(a) is required to act in an emergency, or

(b) cannot determine who is the person responsible for the unauthorised flood risk activity.

(4) A notice of intent must—

(a) specify the steps the regulator intends to take;

(b) specify the date on which the regulator intends to take those steps;

(c) set out the rights of appeal that A has under regulation 31(1)(f).

(5) Where the regulator determines that it is not possible or practical to serve a notice of intent on A, the regulator may serve the notice on any other person who it appears to the regulator may be affected.

(6) Where a notice is served under sub-paragraph (5), sub-paragraph (4)(c) applies as if the reference in that sub-paragraph to "A" is a reference to the person on whom a notice under sub-paragraph (5) is served.

(7) The regulator may recover from A, or a person served with a notice under sub-paragraph (5), the costs of any steps taken by the regulator under sub-paragraph (1).

**Protected undertakings, railways and bridges**

**10.**—(1) For the purposes of this paragraph, "protected undertaking" means the undertakings referred to in paragraph 1(4) of Schedule 22 to the 1991 Act, as read with sub-paragraphs (4A) and (5) of that paragraph.

(2) The regulator must not exercise its functions under these Regulations in relation to any flood risk activity in a manner that prejudices the exercise of any statutory power, authority or jurisdiction by a person carrying on a protected undertaking.

(3) Sub-paragraph (2) does not have the effect of exempting any person carrying on a protected undertaking from the requirement to hold an environmental permit.

(4) The regulator must obtain the consent of the person carrying on a protected undertaking where—

(a) the regulator is proposing to take steps under paragraph 9(1) that will directly or indirectly interfere with works or property (or with the use of works or property) vested in, or under the control of, a person carrying on that undertaking, and

(b) that interference will adversely affect those works, that property (or with the use of those works or that property) or the carrying on of that undertaking.

(5) Sub-paragraph (4) does not apply where the regulator is required to act in an emergency but, in such a case, the regulator must notify the person carrying on the protected undertaking as soon as possible of any steps that have been taken under paragraph 9(1).

(6) Without prejudice to the preceding provisions of this paragraph, nothing in these Regulations that relates to a flood risk activity authorises any person, except with the consent of the railway company in question, to interfere with—

(a) any railway bridge or any other work connected with a railway, or

(b) the structure, use or maintenance of a railway or the traffic on it.

(7) Where consent is required under sub-paragraph (4) or (6), the consent may be subject to reasonable conditions but must not be unreasonably withheld.

(8) There must be a referral to the arbitration of a single arbitrator, to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers(**a**), of any dispute as to whether—

(a) anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraphs (4) and (6);

(b) any consent for the purposes of this paragraph is being unreasonably withheld;

(c) any condition subject to which any such consent has been given is reasonable.

(9) Nothing in this Schedule affects any enactment requiring the consent of any government department, Minister or Welsh Minister for the erection of a bridge, or any powers exercisable by any government department, Minister or Welsh Minister in relation to a bridge.

# PART 2

## Excluded flood risk activities

### SECTION 1

*Introductory*

**1.**—(1) The descriptions in this Part are set out in paragraphs 2 to 13, in their respective first sub-paragraphs.

(2) The specific conditions relating to each description in this Part are set out in paragraphs 2 to 13, in their respective second sub-paragraphs.

(3) The general condition for the descriptions in paragraphs 3 to 13 of this Part is that the activity is not carried out in, or (where the activity is carried out in Wales) within 100 metres of, a water body in Wales that is part of a main river classified as of high morphological status by the NRBW in accordance with the relevant directions.

(4) For the purposes of paragraphs 3 and 4, "licensable marine activity" and "marine licence" have the same meaning as in Part 4 of the Marine and Coastal Access Act 2009(**b**).

(5) For the purposes of this Part, "relevant directions" means the Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015(**c**).

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(**a**) Registered charity number 210252.

(**b**) 2009 c. 23; 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.

(**c**) These Directions were made on 9th September 2015 in exercise of powers in section 40(2) of the 1995 Act and are available at http://www.legislation.gov.uk/uksi/2015/1623/pdfs/uksiod_20151623_en.pdf. A copy may be obtained from the Flood Risk Management Team, the Department for Environment, Food and Rural Affairs, Area 3C, Nobel House, 17 Smith Square, London SW1P 3JR.

**Emergency activity**

**2.**—(1) Any activity carried on in an emergency.

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

(a) the activity is not a pre-planned emergency activity, and

(b) the person carrying on the activity provides the regulator with notice in writing as soon as practicable of the carrying on of the activity and the circumstances in which it was carried on.

(3) For the purposes of sub-paragraph (2)(a), a "pre-planned emergency activity" means any activity which has been planned in response to an emergency before it occurs.

(4) The power of the regulator to serve a remediation notice under paragraph 8 of Part 1 of this Schedule applies where an activity has been carried on in reliance on this exclusion as if that activity were an unauthorised activity.

**A licensable marine activity in England**

**3.**—(1) A licensable marine activity in England.

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

(a) an application for a marine licence has been made in respect of that activity,

(b) the Agency has received notice that the application has been made,

(c) in view of the terms and conditions that will be included in the marine licence, the Agency considers that an environmental permit is not necessary, and

(d) a notice to that effect has been issued by the Agency to the applicant.

**A licensable marine activity in Wales**

**4.**—(1) A licensable marine activity in Wales.

(2) For the purposes of this paragraph, the specific condition is that an application for a marine licence has been made in respect of that activity.

**Ladders and scaffold towers**

**5.**—(1) The erection and use of ladders and scaffold towers ("equipment").

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

(a) the suitability of river conditions is reviewed by the operator each working day,

(b) the equipment is erected on each working day on which it is required, and

(c) the equipment is removed at the end of each working day and is stored outside the river and its banks.

**Service crossings within an existing structure**

**6.**—(1) The construction and use of service crossings within an existing structure.

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

(a) the crossing is entirely within the original profile of the existing structure,

(b) the regulator has not sent a notification to the landowner that the structure has been identified for removal or modification in order to achieve the measures set out in the relevant River Basin Management Plan, within the meaning of Article 13 of the Water

Framework Directive, that are designed to move a water body to good status pursuant to Article 4 of that Directive,

(c) equipment associated with the works is not stored on the bed or banks of the main river, and

(d) no works are carried out from the main river or from the banks of the main river.

**Flood protection devices attached to buildings**

**7.**—(1) The attachment of a flood protection device directly to a building in order to protect the interior of that building.

(2) For the purposes of this paragraph, the specific condition is that the flood protection provided by the device extends only to the building to which the device is fitted.

**Minor works on or affecting bridges and culverts**

**8.**—(1) The carrying out of minor works on or affecting bridges and culverts for highways and public rights of way ("minor works").

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

(a) the minor works do not affect, or have the potential to affect, the bed, banks, water level, normal flow or flood flow in the main river,

(b) equipment associated with the minor works is not stored on the bed or banks of the main river, and

(c) no works are carried out from the main river or from the banks of the main river.

**Fencing**

**9.**—(1) The erection of fencing.

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

(a) the fencing is not located on the bed or banks of the main river, and

(b) the fencing is constructed of—

(i) post and rail,

(ii) post and wire mesh of at least 100 mm spacing, or

(iii) post and wire strands.

**Fish traps**

**10.**—(1) The temporary use of fish traps.

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

(a) the trap has dimensions of no greater than 2 metres x 1 metre x 0.75 metre,

(b) any trap, or combination of traps, placed in the main river is less than one third of the width of the channel,

(c) the trap is not used when the main river is in a condition of high flow, and

(d) the trap is located more than 50 metres upstream or downstream from any dam or other obstruction.

**Notice boards**

**11.**—(1) Erection of notice boards.

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

(a) the board is attached to existing fencing or freestanding, permanent posts,

(b) the board is more than 2 metres from any culvert, remote defence or flood defence structure on the main river and from any sea defence, and

(c) the board is more than 2 metres from the landward side of the bank.

**Purpose-built sediment traps**

**12.**—(1) Clearance of purpose-built sediment traps.

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

(a) only sand and silt is cleared from the trap,

(b) the works do not result in sand or silt being transmitted downstream, and

(c) where the sand and silt from the clearance is spread on the floodplain, it is spread to a depth of no more than 100mm and no closer than 8 metres from the landward side of either bank.

**Site investigation boreholes and trial pits**

**13.**—(1) Site investigation boreholes and trial pits within a flood plain.

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

(a) the works are more than 5 metres from any culvert, remote defence or flood defence structure on the main river and from any sea defence,

(b) the works are more than 8 metres from the banks of a non-tidal main river,

(c) the works are more than 16 metres from the banks of a tidal main river, and

(d) the works are completed, including refilling of the borehole or pit, within 48 hours.

# SCHEDULE 26

Regulation 39(6)

## Enforcement undertakings

**Enforcement undertakings**

**1.**—(1) The Agency may accept an enforcement undertaking from a person in a case where the Agency has reasonable grounds to suspect that the person has committed any of the following offences in relation to a regulated facility or an exempt facility that has been or is being operated in England—

(a) regulation 38(1) (contravening regulation 12(1) or knowingly causing or knowingly permitting the contravention of regulation 12(1)(a)),

(b) regulation 38(2) (failing to comply with, or contravening, an environmental permit condition),

(c) regulation 38(4)(a) (failing to comply with a notice under regulation 61(1) requiring the provision of information),

(d) regulation 38(5)(a) (failing to comply with the record-keeping requirements in paragraph 17(3) or (4) of Schedule 2), or

(e) regulation 38(6) (acts of third parties) so far as it relates to an offence listed in paragraphs (a) to (d).

(2) But paragraph (1) does not apply to an offence in relation to a flood risk activity.

(3) For the purposes of this Schedule, an "enforcement undertaking" is a written undertaking to take such action as may be specified in the undertaking within such period as may be so specified.

**Contents of an enforcement undertaking**

**2.**—(1) An enforcement undertaking must specify—

(a) action to secure that the offence does not continue or recur,

(b) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed,

(c) action (including the payment of a sum of money) to benefit any person affected by the offence, or

(d) where restoration of the harm arising from the offence is not possible, action that will secure equivalent benefit or improvement to the environment.

(2) It must specify the period within which the action must be completed.

(3) It must include—

(a) a statement that the undertaking is given in accordance with this Schedule;

(b) the terms of the undertaking;

(c) how and when a person is considered to have discharged the undertaking.

(4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if both parties agree in writing.

**Acceptance of an enforcement undertaking**

**3.** If the Agency has accepted an enforcement undertaking then, unless the person from whom the undertaking is accepted has failed to comply with the undertaking or any part of it, that person may not at any time be convicted of the offence in respect of the act or omission to which the undertaking relates.

**General provisions on enforcement undertakings**

**4.**—(1) The Agency must establish and publish the procedure for entering into an enforcement undertaking.

(2) The Agency must consult such persons as it considers appropriate before doing so.

(3) When it accepts an undertaking, the Agency may publish it in whatever manner it sees fit.

**Discharge of an enforcement undertaking**

**5.**—(1) If the Agency is satisfied that an enforcement undertaking has been complied with, it must issue a certificate to that effect.

(2) The Agency may require the person who has given the undertaking to provide sufficient information to determine that the undertaking has been complied with.

(3) The person who gave the undertaking may at any time apply for such a certificate.

(4) The Agency must make a decision as to whether to issue such a certificate, and give written notice of the decision to the applicant, within 14 days of such an application.

(5) The person to whom the notice is given may appeal against a decision not to issue a certificate on the grounds that the decision—

(a) was based on an error of fact;

(b) was wrong in law;

(c) was unfair or unreasonable;

(d) was wrong for any other reason.

**Inaccurate, incomplete or misleading information**

**6.**—(1) A person who has given inaccurate, misleading or incomplete information in relation to an enforcement undertaking is regarded as not having complied with it.

(2) The Agency may by notice in writing revoke a certificate issued under paragraph 5 if it was issued on the basis of inaccurate, incomplete or misleading information.

**Non-compliance with an enforcement undertaking**

**7.**—(1) If an enforcement undertaking is not complied with, the Agency may bring criminal proceedings for the offence in respect of the act or omission to which the undertaking relates.

(2) If a person has complied partly but not fully with an undertaking, that part-compliance must be taken into account in the imposition of any criminal sanction on the person.

(3) Criminal proceedings for offences triable summarily to which an enforcement undertaking relates may be instituted at any time up to 6 months from the date when the Agency notifies the person that such person has failed to comply with that undertaking.

**Appeals**

**8.**—(1) An appeal against a decision of the Agency under paragraph 5 is to the First-tier Tribunal.

(2) The Tribunal may—

(a) affirm the decision;

(b) quash the decision and remit it to the Agency.

**Guidance as to use of enforcement undertakings**

**9.**—(1) The Agency must publish guidance about its use of enforcement undertakings.

(2) The Agency must revise the guidance where appropriate.

(3) The Agency must consult such persons as it considers appropriate before publishing any guidance or revised guidance.

(4) The Agency must have regard to the guidance or revised guidance in exercising its functions.

**Publication of enforcement undertakings**

**10.**—(1) The Agency must from time to time publish the cases in which an enforcement undertaking has been entered into.

(2) This paragraph does not apply in cases where the Agency considers that publication would be inappropriate.

# SCHEDULE 27

Regulation 46(1)

## Public registers

**Matters to be included in a public register**

**1.**—(1) A public register must contain a copy of—

(a) every application for—

(i) the grant of an environmental permit,

(ii) the variation of an environmental permit,

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

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

(b) every notice requesting further information under paragraph 4(1) of Part 1 of Schedule 5;

(c) all representations made in respect of an application for the grant or variation of an environmental permit;

(d) every environmental permit, variation, transfer in whole or in part, or surrender in whole or in part granted or made by the regulator;

(e) every determination or decision notified under paragraph 17(2)(a) of Part 1 of Schedule 5;

(f) every prohibition notice, enforcement notice, revocation notice, suspension notice, landfill closure notice, mining waste facility closure notice or notice withdrawing such a notice served by the regulator;

(g) in relation to an appeal to an appropriate authority, every—

(i) notice of appeal,

(ii) document relating to the appeal,

(iii) representation made in respect of the appeal, and

(iv) determination of the authority, including any report accompanying that determination;

(h) all information obtained by the regulator—

(i) as a result of its own monitoring,

(ii) as a result of monitoring required under an environmental permit condition, or

(iii) under regulation 61 in relation to monitoring;

(i) all other information given to the regulator in compliance with—

(i) an environmental permit condition,

(ii) an enforcement notice,

(iii) a suspension notice,

(iv) a landfill closure notice,

(v) a mining waste facility closure notice, or

(vi) regulation 61;

(j) every report published by the regulator relating to an assessment of the environmental consequences of the operation of an installation;

(k) every direction given to the regulator, the exemption registration authority or the exemption authority by an appropriate authority under these Regulations, other than a direction given under regulation 47 or paragraph 13 of Schedule 2.

(2) A public register must also contain—

(a) details of any conviction for, or enforcement undertaking accepted in relation to, an offence under regulation 38 in respect of an environmental permit granted by the regulator or a failure to apply to the regulator for the grant of an environmental permit,

(b) in the case of a body corporate, details of any formal caution for an offence under regulation 38 in respect of an environmental permit granted by the regulator or a failure to apply to the regulator for the grant of an environmental permit,

(c) an inventory of closed mining waste facilities as required under Article 20 of the Mining Waste Directive,

(d) a list identifying all waste incineration plants and waste co-incineration plants—

(i) which have a capacity of less than 2 tonnes per hour, and

(ii) whose operation is authorised by an environmental permit containing conditions which give effect to Chapter IV of the Industrial Emissions Directive,

(e) the information provided to the regulator by the operator of a materials facility under paragraph 7 of Part 2 of Schedule 9, and

(f) details of—

(i) all fees and charges paid to a regulator within the meaning of regulation 66 pursuant to a scheme under that regulation, and

(ii) the total expenditure of that regulator in exercising its functions under these Regulations.

(3) The regulator may omit any representation referred to in sub-paragraph (1) from its public register at the request of the person making the representation, but the regulator must then include in the public register a statement that a representation was made and was the subject of such a request.

(4) The regulator may omit from its public register any representation which substantially duplicates a representation already included in the public register, but the regulator must then include on the register a statement of the number of representations that have been omitted on this basis.

(5) If the regulator omits from its public register information referred to in sub-paragraph (1)(h) on the grounds that it is commercially or industrially confidential, the regulator must include in the public register a statement indicating whether or not there has been compliance with any environmental permit condition related to that information and requiring compliance with emission limit values.

**Information no longer relevant for public participation**

**2.** A regulator is not required to keep in its public register information which is no longer relevant for the purposes of public participation required under these Regulations.

**Formal cautions**

**3.** A regulator must remove details of any formal caution from its public register 5 years after the caution was given.

**Spent convictions of individuals**

**4.** A regulator must remove details of any conviction from its public register once the rehabilitation period for a sentence has ended in accordance with section 5 of the Rehabilitation of Offenders Act 1974(**a**).

# SCHEDULE 28

Regulation 73

## Revocations

| (1) | (2) | (3) |
|---|---|---|
| *Regulations revoked* | *References* | *Extent of revocation* |
| The 2007 Regulations | S.I. 2007/3538 | The whole Regulations, except—<br>regulations 1, 67, 72(3), (4), (8), (9) and (11) and 73 and Schedule 21, and<br>for the purpose of any of those |

(**a**) 1974 c. 53; section 5 was amended by paragraph 24 of Schedule 7 to the Criminal Justice (Scotland) Act 1980 (c. 62), paragraph 36 of Schedule 14, and Schedule 16, to the Criminal Justice Act 1982 (c. 48), paragraph 9 of Schedule 8 to the Criminal Justice Act 1988 (c. 33), paragraph 48 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraph 18 of Schedule 32(1) to the Criminal Justice Act 2003 (c. 44), paragraph 65 of Schedule 16 and Schedule 17 to the Armed Forces Act 2006 (c. 52), and section 139 of, and paragraph 2 of Schedule 21(1) to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

| (1) | (2) | (3) |
|---|---|---|
| *Regulations revoked* | *References* | *Extent of revocation* |
| | | provisions, any definition in Part 1. |
| The Environmental Permitting (England and Wales) (Amendment) Regulations 2009(**a**) | S.I. 2009/1799 | The whole Regulations, except regulations 1 and 28(1) and Schedule 2. |
| The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2009(**b**) | S.I. 2009/3381 | The whole Regulations, except regulations 1 and 13(1) and (3). |
| The 2010 Regulations | S.I. 2010/675 | The whole Regulations, except—<br>regulations 1, 67, 107 and Schedule 26, and<br>for the purpose of any of those provisions, any definition in Part 1. |
| The Environmental Permitting (England and Wales) (Amendment) Regulations 2010 | S.I. 2010/676 | The whole Regulations. |
| The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2010 | S.I. 2010/2172 | The whole Regulations. |
| The Environmental Permitting (England and Wales) (Amendment) Regulations 2011(**c**) | S.I. 2011/2043 | The whole Regulations, except regulations 1 to 5, 9 and 16 and Schedule 2. |
| The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2011 | S.I. 2011/2933 | The whole Regulations. |
| The Environmental Permitting (England and Wales) (Amendment) Regulations 2012 | S.I. 2012/630 | The whole Regulations, except regulations 1 to 3, 19(1) and (2), 20 and 21. |
| The Environmental Permitting (England and Wales) (Amendment) Regulations 2013 | S.I. 2013/390 | The whole Regulations, except regulations 1 to 9 and 57. |
| The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2013(**d**) | S.I. 2013/766 | Regulation 2(3). |
| The Environmental Permitting (England and Wales) (Amendment) Regulations 2014 | S.I. 2014/255 | The whole Regulations. |
| The Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2014 | S.I. 2014/2852 | The whole Regulations, except regulations 1 to 4. |
| The Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2015 | S.I. 2015/324 | The whole Regulations, except for regulations 1 and 2(1) and (2). |
| The Environmental Permitting (England and Wales) (Amendment) Regulations 2015 | S.I. 2015/918 | The whole Regulations, except for regulations 1 and 2. |

(**a**) Amended by S.I. 2010/675.
(**b**) Amended by S.I. 2010/675.
(**c**) Amended by S.I. 2016/58 (W. 28).
(**d**) Amended by S.I. 2015/483.

| (1) | (2) | (3) |
|---|---|---|
| *Regulations revoked* | *References* | *Extent of revocation* |
| The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2015 | S.I. 2015/934 | The whole Regulations. |
| The Environmental Permitting (England and Wales) (Amendment) (No. 3) Regulations 2015 | S.I. 2015/1756 | The whole Regulations. |
| The Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2016 | S.I. 2016/149 | The whole Regulations. |
| The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 | S.I. 2016/475 | The whole Regulations, except for regulations 1 to 7, 29 and 31 to 34 and Schedule 3. |

# SCHEDULE 29

Regulation 75

## Consequential amendments

## PART 1

### Public General Acts

**Continental Shelf Act 1964**

**1.** In section 7 of the Continental Shelf Act 1964(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Nuclear Installations Act 1965**

**2.**—(1) The Nuclear Installations Act 1965(**b**) is amended as follows.

(2) In section 3(14)(a)(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

(3) In section 4(**d**)—

(a) in subsection (3)(d), for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)";

(b) in subsection (7)(a), for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(**a**) 1964 c. 29; section 7 was amended by paragraph 2(3) of Schedule 4 to the Petroleum Act 1998 (c. 17) and by S.I. 2010/675 and 2011/2043.
(**b**) 1965 c. 57.
(**c**) Section 3 was substituted by paragraph 18 of Schedule 12 to the Energy Act 2013 (c. 32).
(**d**) Section 4 was substituted by paragraph 19 of Schedule 12 to the Energy Act 2013.

**Control of Pollution Act 1974**

**3.** In section 30(5) of the Control of Pollution Act 1974(**a**)—

(a) in the words before paragraph (a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)";

(b) in paragraph (b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Salmon and Freshwater Fisheries Act 1975**

**4.** In section 5(5)(c) of the Salmon and Freshwater Fisheries Act 1975(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Highways Act 1980**

**5.** In section 339(1A) of the 1980 Act(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Environmental Protection Act 1990**

**6.**—(1) The 1990 Act is amended as follows.

(2) In section 28(2)(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

(3) In section 29(12)(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

(4) For section 33(1B)(**f**), substitute—

"(1B) Subsection (1) does not apply in relation to any part of a waste operation that—

(a) is the subject of a marine licence under the Marine and Coastal Access Act 2009(**g**); or

(b) does not require such a licence by virtue of any provision made by or under section 74, 75(**h**) or 77 of that Act and does not involve the dismantling of a ship that is waste.".

(5) In section 78YB(5)(**i**), in the definition of "enforcement action", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

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(**a**) 1974 c. 40; section 30(5) was amended by S.I. 2010/675 and 2011/2043. Section 30 is prospectively repealed by Part 2 of Schedule 16 to the 1990 Act on a date to be appointed.
(**b**) 1975 c. 51; section 5(5)(c) was substituted by S.I. 2010/675.
(**c**) Section 339(1A) was inserted by S.I. 2016/475.
(**d**) Section 28(2) was amended by S.I. 2010/675. Section 28 is prospectively repealed by Schedule 3 to the Pollution Prevention and Control Act 1999 (c. 24) on a date to be appointed.
(**e**) Section 29(12) was inserted by S.I. 2007/3538 and substituted by S.I. 2010/675.
(**f**) Section 33(1B) was inserted by S.I. 2007/3538 and substituted by S.I. 2010/675.
(**g**) 2009 c. 23.
(**h**) Section 75 was amended by S.I. 2011/405 and 2016/738.
(**i**) Section 78YB was inserted by section 57 of the 1995 Act; subsection (5) was inserted by S.I. 2007/3538 and amended by S.I. 2010/675.

(6) In section 78YC(b)(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

(7) In section 142(7)(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Atomic Weapons Establishment Act 1991**

**7.** In the Atomic Weapons Establishment Act 1991(**c**)—

(a) in the heading before paragraph 10C of the Schedule(**d**), for "Environmental Permitting (England and Wales) Regulations 2010" substitute "Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph 10C(1) of the Schedule, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Water Industry Act 1991**

**8.**—(1) The Water Industry Act 1991(**e**) is amended as follows.

(2) In section 117(5)(a)(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

(3) In section 138(1B)(a)(**g**), in the words after sub-paragraph (ii), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Water Resources Act 1991**

**9.** In section 221(1) of the 1991 Act(**h**), in the definition of "Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Water Consolidation (Consequential Provisions) Act 1991**

**10.** In paragraph 30(1)(a) of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991(**i**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Clean Air Act 1993**

**11.** In section 41A of the Clean Air Act 1993(**j**)—

(a) in subsection (2)(c), for "paragraph 7 of Schedule 2" substitute "paragraph 11 of Schedule 2";

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(**a**) Section 78YC was inserted by section 57 of the 1995 Act and amended by S.I. 2010/675.
(**b**) Section 142(7) was amended by S.I. 2006/2407, 2010/675, 2012/1916 and 2014/1638.
(**c**) 1991 c. 46.
(**d**) Paragraph 10C was inserted by S.I. 2010/675.
(**e**) 1991 c. 56.
(**f**) Section 117(5)(a) was amended by paragraph 97 of Schedule 7 to the Water Act 2014 (c. 21).
(**g**) Section 138(1B) was inserted by S.I. 2000/1973 and paragraph (a) was amended by S.I. 2010/675.
(**h**) The definition was inserted by S.I. 2010/675.
(**i**) 1991 c. 60; paragraph 30(1) was amended by S.I. 2010/675.
(**j**) 1993 c. 11; section 41A was inserted by S.I. 2000/1973; subsection 2(c) was inserted by S.I. 2007/3538 and amended by S.I. 2010/675; subsection (4) was inserted by S.I. 2007/3538 and amended by S.I. 2009/1799 and 2010/675.

(b) in subsection (4), in the definition of "the Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Goods Vehicles (Licensing of Operators) Act 1995**

**12.** In paragraph 5(ia) of Schedule 2 to the Goods Vehicles (Licensing of Operators) Act 1995(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Environment Act 1995**

**13.**—(1) The 1995 Act is amended as follows.

(2) In section 42(3)(b)(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

(3) In section 56(1)(**c**), in paragraph (j) of the definition of "environmental licence" in the application of Part 1 of the 1995 Act in relation to an appropriate agency, for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

(4) In paragraph 4(3)(d) of Schedule 20(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Petroleum Act 1998**

**14.** In section 4B(8) of the Petroleum Act 1998(**e**), in the definition of "environmental permit", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Finance Act 2000**

**15.** In paragraph 51(6) of Schedule 6 to the Finance Act 2000(**f**), in the definition of "primary activity", in the table—

(a) in the heading before entry 1, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in entry 5(1), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)";

(c) in entry 5(2)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Energy Act 2004**

**16.**—(1) The Energy Act 2004(**g**) is amended as follows.

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(**a**) 1995 c. 23; paragraph 5(1a) was inserted by S.I. 2007/3538 and amended by S.I. 2010/675.
(**b**) Section 42(3)(b) was substituted by S.I. 2010/675.
(**c**) Paragraph (j) of the definition of "environmental licence" was substituted by S.I. 2009/3381.
(**d**) Paragraph 4(3)(d) of Schedule 20 was inserted by S.I. 2000/1973 and substituted by S.I. 2010/675.
(**e**) 1998 c. 17; section 4B was inserted by section 50 of the Infrastructure Act 2015 (c. 7).
(**f**) 2000 c. 17; relevant amendments to paragraph 51(6) were made by S.I. 2001/1139, 2007/3538 and 2010/675.
(**g**) 2004 c. 20.

(2) In section 10(2)(b)(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

(3) In section 37(7)(**b**), in the definition of "radioactive waste", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Planning Act 2008**

**17.** In section 30A(7) of the Planning Act 2008(**c**), in the definition of "radioactive waste", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Energy Act 2008**

**18.** In section 59(2)(d) of the Energy Act 2008(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Scrap Metal Dealers Act 2013**

**19.** In section 22(7)(a) of the Scrap Metal Dealers Act 2013(**e**), for "the Environmental (Permitting) Regulations 2010 (S.I. 2010/675)" substitute "the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

**Defence Reform Act 2014**

**20.** In the Defence Reform Act 2014(**f**)—

(a) in the heading before paragraph 6 of Schedule 1, for "Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675)" substitute "Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph 6 of Schedule 1, for "The Environmental Permitting (England and Wales) Regulations 2010" substitute "The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/xxx)".

# PART 2

## Subordinate legislation

**Deposits in the Sea (Exemptions) Order 1985**

**1.** In article 4(2) of the Deposits in the Sea (Exemptions) Order 1985(**g**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) Section 10 was amended by S.I. 2010/675.
(**b**) The definition was amended by S.I. 2010/675.
(**c**) 2008 c. 29; section 30A was inserted by S.I. 2015/949.
(**d**) 2008 c. 32; section 59(2)(d) was amended by S.I. 2010/675.
(**e**) 2013 c. 10.
(**f**) 2014 c. 20. Schedule 1 comes into force on a day to be appointed.
(**g**) S.I. 1985/1699; relevant amending instruments are S.I. 1994/1056, 2007/3538 and 2010/675.

**Town and Country Planning (Use Classes) Order 1987**

**2.** In article 3(8) of the Town and Country Planning (Use Classes) Order 1987(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Civil Jurisdiction (Offshore Activities) Order 1987**

**3.** In the Civil Jurisdiction (Offshore Activities) Order 1987(**b**)—

(a) in the heading of article 4, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in article 4, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Urban Waste Water Treatment (England and Wales) Regulations 1994**

**4.** In regulation 2 of the Urban Waste Water Treatment (England and Wales) Regulations 1994(**c**), in the definition of "Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Landfill Tax Regulations 1996**

**5.** In regulation 33(4)(h) of the Landfill Tax Regulations 1996(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Water Protection Zone (River Dee Catchment) Designation Order 1999**

**6.** In article 2 of the Water Protection Zone (River Dee Catchment) Designation Order 1999(**e**)—

(a) in the definition of "catchment control site", for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (ii) of the definition of "controlled substance", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Ionising Radiations Regulations 1999**

**7.** In regulation 30(2)(a) of the Ionising Radiations Regulations 1999(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 1987/764; relevant amending instruments are S.I. 2002/1875 (W. 184) and 2010/675.
(**b**) S.I. 1987/2197, amended by S.I. 2010/675 and 2011/2043.
(**c**) S.I. 1994/2841, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**d**) S.I. 1996/1527; relevant amending instruments are S.I. 2007/3538 and 2010/675.
(**e**) S.I. 1999/915; relevant amending instruments are S.I. 2007/3538 and 2010/675.
(**f**) S.I. 1999/3232, amended by S.I. 2010/675; there are other amending instruments but none is relevant.

**Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000**

**8.** In Schedule 3 to the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Non-automatic Weighing Instruments Regulations 2000**

**9.** In regulation 28(7) of the Non-automatic Weighing Instruments Regulations 2000(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Control of Pollution (Oil Storage) (England) Regulations 2001**

**10.** In regulation 2(2)(a) of the Control of Pollution (Oil Storage) (England) Regulations 2001(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003**

**11.** In Schedule 3 to the Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**End-of-Life Vehicles Regulations 2003**

**12.** In regulation 2 of the End-of-Life Vehicles Regulations 2003(**e**), in the definition of "authorised treatment facility", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003**

**13.** In Schedule 3 to the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003(**f**), under "Definition of waste", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Water Environment (Water Framework Directive) (England and Wales) Regulations 2003**

**14.** For paragraph 17 of Schedule 2 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(**g**), substitute—

"**17.** The Environmental Permitting (England and Wales) Regulations 2016.".

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(**a**) S.I. 2000/388, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**b**) S.I. 2000/3236, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**c**) S.I. 2001/2954; relevant amending instruments are S.I. 2007/3538 and 2010/675.
(**d**) S.I. 2003/2454, amended by S.I. 2010/675.
(**e**) S.I. 2003/2635; relevant amending instruments are S.I. 2007/3538 and 2010/675.
(**f**) S.I. 2003/2761, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**g**) S.I. 2003/3242, amended by S.I. 2015/1623; there are other amending instruments but none is relevant.

**Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004**

**15.** For paragraph 14 of Schedule 2 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004(**a**) substitute—

"**14.** The Environmental Permitting (England and Wales) Regulations 2016.".

**Hazardous Waste (England and Wales) Regulations 2005**

**16.** In regulation 5(1) of the Hazardous Waste (England and Wales) Regulations 2005(**b**), in the definition of "the Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Hazardous Waste (Wales) Regulations 2005**

**17.**—(1) The Hazardous Waste (Wales) Regulations 2005(**c**) are amended as follows.

(2) In regulation 5(1)—

(a) in the English language text, for the definition of "the Environmental Permitting Regulations" substitute—

""the Environmental Permitting Regulations" (*"y Rheoliadau Trwyddedu Amgylcheddol"*) means the Environmental Permitting (England and Wales) Regulations 2016;";

(b) in the Welsh language text—

(i) in the appropriate place insert the following definitions—

"mae i "esemptiad sylweddau ymbelydrol" (*"radioactive substances exemption"*) yr ystyr a roddir i "radioactive substances exemption" yn rheoliad 2(1) o'r Rheoliadau Trwyddedu Amgylcheddol;";

"mae i "gweithgaredd sylweddau ymbelydrol" (*"radioactive substances activity"*) yr ystyr a roddir i "radioactive substances activity" yn Atodlen 23 i'r Rheoliadau Trwyddedu Amgylcheddol;";

"mae i "gwastraff ymbelydrol" (*"radioactive waste"*) yr ystyr a roddir i "radioactive waste" yn Atodlen 23 i'r Rheoliadau Trwyddedu Amgylcheddol;";

"ystyr "y Rheoliadau Trwyddedu Amgylcheddol" ("the Environmental Permitting Regulations") yw Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016;";

"mae i "trwydded amgylcheddol" (*"environmental permit"*) yr ystyr a roddir i "environmental permit" yn y Rheoliadau Trwyddedu Amgylcheddol;";

(ii) for the definition of "esemptiad cofrestredig" ("registered exemption") substitute—

"ystyr "esemptiad cofrestredig" ("registered exemption") yw gwaith gwastraff esempt o fewn ystyr y Rheoliadau Trwyddedu Amgylcheddol;".

(3) In regulation 15, in the Welsh language text, for paragraph (1) substitute—

"(1) Mae'r rheoliad hwn yn gymwys i wastraff ymbelydrol—

(a) pan nad yw gweithgaredd sylweddau ymbelydrol mewn cysylltiad â'r gwastraff ymbelydrol hynny yn gofynni trwydded amgylcheddol yn rhinwedd esemptiad sylweddau ymbelydrol; a

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(**a**) S.I. 2004/99, amended by S.I. 2016/139.
(**b**) S.I. 2005/894, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**c**) S.I. 2005/1806 (W. 138); relevant amending instruments are S.I. 2007/3538, 2010/675 and 2011/2043; there are other amending instruments but none is relevant.

(b) pan fod gan y gwastraff ymbelydrol un neu fwy o nodweddion peryglys yn codi heb fod o'i natur ymbelydrol.".

(4) In regulation 22(2), in the Welsh language text, for "thrwydded rheoli gwastraff" substitute "thrwydded amgylcheddol".

(5) In regulation 26(4), in the Welsh language text, in sub-paragraph (ch), for "baragraff 13 o Atodlen 4 i Reoliadau 1994" substitute "reoliad 34(2) o'r Rheoliadau Trwyddedu Amgycheddol".

**Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006**

**18.** In regulation 16(3) of the Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Measuring Instruments (Automatic Catchweighers) Regulations 2006**

**19.** In regulation 18(5) of the Measuring Instruments (Automatic Catchweighers) Regulations 2006(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006**

**20.** In Part 1 of Schedule 5 to the Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006**

**21.** In regulation 17(4) of the Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006(**d**)—

(a) for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) for "the 2007 Regulations", in both places it occurs, substitute "the 2016 Regulations".

**Contaminated Land (England) Regulations 2006**

**22.**—(1) The Contaminated Land (England) Regulations 2006(**e**) are amended as follows.

(2) In regulation 2(1)(e), omit "or by means of Part A(1) mobile plant".

(3) After regulation 2(1)(e) insert—

"(ea) land on which an activity has been carried on by means of Part A(1) mobile plant under a permit, where the activity did not solely consist of things being done which were required by way of remediation;".

(4) In regulation 2(4), for "and "Part A(1) mobile plant" have the same meanings as in the Environmental Permitting (England and Wales) Regulations 2010" substitute "has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2016".

(5) After regulation 2(4) insert—

"(4A) In paragraph (1)(ea), "Part A(1) mobile plant" has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010 as those Regulations

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(**a**) S.I. 2006/1256, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**b**) S.I. 2006/1257, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**c**) S.I. 2006/1258, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**d**) S.I. 2006/1379, to which there are amendments not relevant to these Regulations.
(**e**) S.I. 2006/1380; relevant amending instruments are S.I. 2007/3538 and 2010/675.

were in force on 26th February 2013(**a**), and "permit" has the same meaning as "environmental permit" in those Regulations as at that date.".

(6) In paragraph 16 of Schedule 3, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006**

**23.** In regulation 17(4) of the Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006(**b**)—

(a) for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) for "the 2007 Regulations", in both places it occurs, substitute "the 2016 Regulations".

**Contaminated Land (Wales) Regulations 2006**

**24.**—(1) The Contaminated Land (Wales) Regulations 2006(**c**) are amended as follows.

(2) In regulation 2—

(a) in the English language text—

(i) in paragraph (1)(e) omit "or by means of Part A(1) mobile plant";

(ii) after paragraph (1)(e) insert—

"(ea) land on which an activity has been carried on by means of Part A(1) mobile plant under a permit, where the activity did not solely consist of things being done which were required by way of remediation;";

(iii) in paragraph (4) for "and "Part A(1) mobile plant" have the same meanings as in the Environmental Permitting (England and Wales) Regulations 2010" substitute "has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2016";

(iv) after paragraph (4) insert—

"(4A) In paragraph (1)(ea), "Part A(1) mobile plant" has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010 as those Regulations were in force on 26th February 2013, and "permit" has the same meaning as "environmental permit" in those Regulations as at that date.";

(b) in the Welsh language text—

(i) in paragraph (1)(d), omit "neu trwy gyfrwng gwaith symudol Rhan A(1)";

(ii) after paragraph (1)(d) insert—

"(da) tir lle mae gweithgaredd wedi'i gynnal trwy gyfrwng gwaith symudol Rhan A(1) o dan drwydded, pan nad yw'r gweithgaredd yn cynnwys pethau sy'n cael eu gwneud ac y mae'n ofynnol eu gwneud o ran gwaith adfer;";

(iii) for paragraph (4) substitute—

"(4) Ym mharagraff (1)(d), mae i "gweithfan Rhan A(1)" yr ystyr a roddir i "Part A(1) installation" yn Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016, ac mae i "trwydded" yr ystyr a roddir i "environmental permit" yn y Rheoliadau hynny.";

(iv) after paragraph (4) insert—

"(4A) Ym mharagraff (1)(da), mae i "gwaith symudol Rhan A(1)" yr ystyr a roddir i "Part A(1) mobile plant" yn Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010

(**a**) The date of 26th February 2013 was the day before S.I. 2010/675 was amended by S.I. 2013/390, removing references to Part A(1) mobile plant.
(**b**) S.I. 2006/2988 (W. 277), amended by S.I. 2008/521; there are other amending instruments but none is relevant.
(**c**) S.I. 2006/2989 (W. 278); relevant amending instruments are S.I. 2007/3538 and 2010/675.

fel yr oedd mewn grym ar 26 Chwefror 2013, ac mae i "trwydded" yr ystyr a roddir i "environmental permit" yn y Rheoliadau hynny ar y dyddiad hwnnw.".

(3) In paragraph 16 of Schedule 3—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text—

(i) in the words before sub-paragraph (a), for "gydsyniad a roddwyd o dan Bennod 2 o Ran 3 o Ddeddf Adnoddau Dwr 1991 (troseddau llygru)" substitute "trwydded amgylcheddol a roddir o dan reoliad 13 o Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016";

(ii) in sub-paragraph (a), for "cydsyniad" substitute "trwydded amgylcheddol".

**Producer Responsibility Obligations (Packaging Waste) Regulations 2007**

**25.** In regulation 2(2) of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(**a**), in the definition of "relevant authorisation", for "the Environmental Permitting (England and Wales) Regulations 2010", in both places it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Persistent Organic Pollutants Regulations 2007**

**26.** In regulation 4(1)(b) and (2) of the Persistent Organic Pollutants Regulations 2007(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Cremation (England and Wales) Regulations 2008**

**27.** In regulation 29(2) of the Cremation (England and Wales) Regulations 2008(**c**), in the definitions of "incinerated" and "permit", for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009**

**28.** In regulation 2(1) of the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009(**d**)—

(a) in paragraph (m)(vi), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (n), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Waste Batteries and Accumulators Regulations 2009**

**29.** In paragraph 12(2) of Schedule 4 to the Waste Batteries and Accumulators Regulations 2009(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010", in both places it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2007/871; relevant amending instruments are S.I. 2007/3538 and 2010/675.
(**b**) S.I. 2007/3106, amended by S.I. 2010/675; there are other amending instruments but none is relevant.
(**c**) S.I. 2008/2841, to which there are amendments not relevant to these Regulations.
(**d**) S.I. 2009/665, amended by S.I. 2014/3070; there are other amending instruments but none is relevant.
(**e**) S.I. 2009/890, amended by S.I. 2010/675; there are other amending instruments but none is relevant.

**Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009**

**30.**—(1) The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009(**a**) are amended as follows.

(2) In regulation 10—

(a) in the English language text, in the heading and in paragraph (1), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text—

(i) in the heading, for "Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016";

(ii) in paragraph (1), for "Reoliadau Caniatáu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

(3) In regulation 11(1)—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text, for "Reoliadau Caniatáu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

(4) In paragraph 1(a) of Schedule 3—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text, for "Reoliadau Caniatáu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

**Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009**

**31.**—(1) The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009(**b**) are amended as follows.

(2) In regulation 2—

(a) for the definition of "the 2010 Regulations" substitute—

""the 2016 Regulations" means the Environmental Permitting (England and Wales) Regulations 2016;";

(b) for the definition of "competent authority" substitute—

""competent authority" means, in relation to an area, the fire and rescue authority under the Fire and Rescue Services Act 2004(**c**) for that area;";

(c) in the definition of "operator", for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the 2016 Regulations";

(d) in the definition of "regulator", for "the 2010 Regulations", in both places it occurs, substitute "the 2016 Regulations".

(3) In regulation 9(3), for "the Environmental Permitting (England and Wales) Regulations 2007" substitute "the 2016 Regulations".

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(**a**) S.I. 2009/995 (W. 81), amended by S.I. 2012/630; there are other amending instruments but none is relevant.
(**b**) S.I. 2009/1927, amended by S.I. 2013/755 (W. 90); there are other amending instruments but none is relevant.
(**c**) 2004. c. 21; section 1 was amended by paragraph 10(1) and (2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36).

**Corporation Tax (Land Remediation Relief) Order 2009**

**32.** In article 4(2)(b) of the Corporation Tax (Land Remediation Relief) Order 2009(**a**), for paragraph (i) substitute—

"(i) the Environmental Permitting (England and Wales) Regulations 2016,".

**Mercury Export and Data (Enforcement) Regulations 2010**

**33.** In regulation 5(4)(a) of the Mercury Export and Data (Enforcement) Regulations 2010(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Conservation of Habitats and Species Regulations 2010**

**34.** In regulation 98(1) of the Conservation of Habitats and Species Regulations 2010(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**River Mersey (Mersey Gateway Bridge) Order 2011**

**35.** In article 14(7) of the River Mersey (Mersey Gateway Bridge) Order 2011(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Waste (England and Wales) Regulations 2011**

**36.**—(1) The Waste (England and Wales) Regulations 2011(**e**) are amended as follows.

(2) After regulation 29(5A)(z), insert—

"(z1) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016.".

(3) In regulation 35(2)(c)—

(a) in paragraph (v), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (vi), for "regulation 68(2) of the Environmental Permitting (England and Wales) Regulations 2010" substitute "regulation 4(3) of the Environmental Permitting (England and Wales) Regulations 2016".

(4) In regulation 46(1)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(5) In regulation 47—

(a) in paragraphs (1)(b)(i) and (4), for "the Environmental Permitting (England and Wales) Regulations 2010", in each place it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (4), in the definitions of "radioactive substances exemption" and "specified waste", for "Part 7", in each place it occurs, substitute "Part 6".

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(**a**) S.I. 2009/2037.
(**b**) S.I. 2010/265, amended by S.I. 2012/630; there are other amending instruments but none is relevant.
(**c**) S.I. 2010/490, amended by S.I. 2012/630; there are other amending instruments but none is relevant.
(**d**) S.I. 2011/41.
(**e**) S.I. 2011/988; relevant amending instruments are S.I. 2011/2043, 2013/755 (W. 90) and 2014/656.

**Network Rail (Hitchin (Cambridge Junction)) Order 2011**

**37.** In article 14(7) of the Network Rail (Hitchin (Cambridge Junction)) Order 2011(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Town and Country Planning (Environmental Impact Assessment) Regulations 2011**

**38.** In paragraph 2 of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011(**b**), at sub-paragraph 3(g) of the table, in paragraph (ii) of column 2—

(a) for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) for "paragraph 5(2)(b), (2)(c) or (4)" substitute "paragraph 11(2)(b), (2)(c) or (4)".

**Renewable Heat Incentive Scheme Regulations 2011**

**39.**—(1) The Renewable Heat Incentive Scheme Regulations 2011(**c**) are amended as follows.

(2) In regulation 2(1), in the definition of "environmental permit", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 1(2)(m) of Schedule 1, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012**

**40.** In regulation 3(4) of the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012(**d**), for paragraph (a) of the definition of "solvent emission activity" substitute—

"(a) Schedule 14 to the Environmental Permitting (England and Wales) Regulations 2016;".

**Ipswich Barrier Order 2012**

**41.** In article 13(4) of the Ipswich Barrier Order 2012(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Network Rail (Ipswich Chord) Order 2012**

**42.** In article 13(7) of the Network Rail (Ipswich Chord) Order 2012(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2011/1072.
(**b**) S.I. 2011/1824, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2011/2860; relevant amending instruments are S.I. 2013/2410 and 2016/257.
(**d**) S.I. 2012/1715, amended by S.I. 2013/390; there are other amending instruments but none is relevant.
(**e**) S.I. 2012/1867.
(**f**) S.I. 2012/2284, to which there are amendments not relevant to these Regulations.

**Network Rail (North Doncaster Chord) Order 2012**

**43.** In article 20(7) of the Network Rail (North Doncaster Chord) Order 2012(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Chiltern Railways (Bicester to Oxford Improvements) Order 2012**

**44.** In article 19(7) of the Chiltern Railways (Bicester to Oxford Improvements) Order 2012(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Climate Change Agreements (Eligible Facilities) Regulations 2012**

**45.** In paragraphs 23 and 36(a) of the Schedule to the Climate Change Agreements (Eligible Facilities) Regulations 2012(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Greenhouse Gas Emissions Trading Scheme Regulations 2012**

**46.** For paragraph 1(2)(b)(i) of Schedule 4 to the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (permits)(**d**), substitute—

"(i) the Environmental Permitting (England and Wales) Regulations 2016;".

**Crossrail (Kensal Green) Order 2013**

**47.** In article 5(7) of the Crossrail (Kensal Green) Order 2013(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Brechfa Forest West Wind Farm Order 2013**

**48.** In article 12(7) of the Brechfa Forest West Wind Farm Order 2013(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Hinkley Point C (Nuclear Generating Station) Order 2013**

**49.** In article 21(7) of the Hinkley Point C (Nuclear Generating Station) Order 2013(**g**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013**

**50.** In article 16(7) of the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013(**h**), for "the Environmental Permitting

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(**a**) S.I. 2012/2635, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2012/2679.
(**c**) S.I. 2012/2999, to which there are amendments not relevant to these Regulations.
(**d**) S.I. 2012/3038, to which there are amendments not relevant to these Regulations.
(**e**) S.I. 2013/198.
(**f**) S.I. 2013/586, to which there are amendments not relevant to these Regulations.
(**g**) S.I. 2013/648, to which there are amendments not relevant to these Regulations.
(**h**) S.I. 2013/675, to which there are amendments not relevant to these Regulations.

(England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Leeds Railway Station (Southern Entrance) Order 2013**

**51.** In article 13(7) of the Leeds Railway Station (Southern Entrance) Order 2013(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Croxley Rail Link Order 2013**

**52.** In article 13(7) of the Croxley Rail Link Order 2013(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013**

**53.**—(1) The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013(**c**) are amended as follows.

(2) In regulation 3(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In Part 2 of the Schedule, after paragraph (b), insert—

"(bb) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016".

**Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013**

**54.** In article 20(7) of the Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**M1 Junction 10a (Grade Separation) Order 2013**

**55.** In article 16(7) of the M1 Junction 10a (Grade Separation) Order 2013(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Network Rail (Redditch Branch Enhancement) Order 2013**

**56.** In article 13(7) of the Network Rail (Redditch Branch Enhancement) Order 2013(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2013/1933.
(**b**) S.I. 2013/1967.
(**c**) S.I. 2013/2258.
(**d**) S.I. 2013/2587.
(**e**) S.I. 2013/2808.
(**f**) S.I. 2013/2809.

**Waste Electrical and Electronic Equipment Regulations 2013**

**57.** In regulation 2(1) of the Waste Electrical and Electronic Equipment Regulations 2013(**a**), in the definition of "relevant authorisation", for "the Environmental Permitting (England and Wales) Regulations 2010", in both places it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**National Grid (King's Lynn B Power Station Connection) Order 2013**

**58.** In article 14(7) and (8)(b) of the National Grid (King's Lynn B Power Station Connection) Order 2013(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order 2013**

**59.** In article 17(7) of the Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order 2013(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Network Rail (Norton Bridge Area Improvements) Order 2014**

**60.** In article 18(7) of the Network Rail (Norton Bridge Area Improvements) Order 2014(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**National Grid (North London Reinforcement Project) Order 2014**

**61.** In article 17(7) and (10)(c) of the National Grid (North London Reinforcement Project) Order 2014(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**East Anglia ONE Offshore Wind Farm Order 2014**

**62.**—(1) The East Anglia ONE Offshore Wind Farm Order 2014(**f**) is amended as follows.

(2) In article 13(7) and (8)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 4(a) of Part 4 of Schedule 9, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Daventry International Rail Freight Interchange Alteration Order 2014**

**63.** In article 17(7) of the Daventry International Rail Freight Interchange Alteration Order 2014(**g**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2013/3113, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2013/3200.
(**c**) S.I. 2013/3244.
(**d**) S.I. 2014/909.
(**e**) S.I. 2014/1052.
(**f**) S.I. 2014/1599, to which there are amendments not relevant to these Regulations.
(**g**) S.I. 2014/1796.

**Rampion Offshore Wind Farm Order 2014**

**64.** In article 20(7) of the Rampion Offshore Wind Farm Order 2014(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Network Rail (Huyton) Order 2014**

**65.** In article 13(7) of the Network Rail (Huyton) Order 2014(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014**

**66.** In article 15(7) of the A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014**

**67.** In article 19(7) of the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**North Killingholme (Generating Station) Order 2014**

**68.**—(1) The North Killingholme (Generating Station) Order 2014(**e**) is amended as follows.

(2) In article 14(7) and (8), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 4(a) of Part 1 of Schedule 8, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Clocaenog Forest Wind Farm Order 2014**

**69.** In article 18(7) of the Clocaenog Forest Wind Farm Order 2014(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014**

**70.** In article 16(7) of the Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014(**g**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2014/1873, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2014/2027.
(**c**) S.I. 2014/2269.
(**d**) S.I. 2014/2384, to which there are amendments not relevant to these Regulations.
(**e**) S.I. 2014/2434, to which there are amendments not relevant to these Regulations.
(**f**) S.I. 2014/2441.
(**g**) S.I. 2014/2637.

**South Hook Combined Heat and Power Plant Order 2014**

**71.** In article 2 of the South Hook Combined Heat and Power Plant Order 2014(**a**), in the definition of "the Environmental Permitting Regulations", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Able Marine Energy Park Development Consent Order 2014**

**72.**—(1) The Able Marine Energy Park Development Consent Order 2014(**b**) is amended as follows.

(2) In article 20(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 102(a) of Part 11 of Schedule 9, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Walney Extension Offshore Wind Farm Order 2014**

**73.** In article 15(7) and (9)(b) of the Walney Extension Offshore Wind Farm Order 2014(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**London Underground (Northern Line Extension) Order 2014**

**74.** In article 16(7) of the London Underground (Northern Line Extension) Order 2014(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014**

**75.** In paragraph 3 of Schedule 1 to the Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014(**e**)—

(a) in the English language text—

(i) for "the Environmental Permitting (England and Wales) Regulations 2010", in each place it occurs, substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(ii) in sub-paragraph (2), for "regulation 35(2)(p)" substitute "regulation 35(2)";

(b) in the Welsh language text—

(i) in sub-paragraph (1), for "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016";

(ii) in sub-paragraph (2), for "rheoliad 35(2)(p) o Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "rheoliad 35(2) o Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016";

(iii) in sub-paragraph (3), for "Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010", in both places it occurs, substitute "Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

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(**a**) S.I. 2014/2846.
(**b**) S.I. 2014/2935.
(**c**) S.I. 2014/2950, to which there are amendments not relevant to these Regulations.
(**d**) S.I. 2014/3102.
(**e**) S.I. 2014/3223 (W. 328), to which there are amendments not relevant to these Regulations.

**Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014**

**76.** In paragraph 2 of Schedule 2 to the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014(**a**), in the table—

(a) for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) for "regulation 35(2)(p)" substitute "regulation 35(2)".

**Willington C Gas Pipeline Order 2014**

**77.** In article 14(7) and (8)(b) of the Willington C Gas Pipeline Order 2014(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Hornsea One Offshore Wind Farm Order 2014**

**78.**—(1) The Hornsea One Offshore Wind Farm Order 2014(**c**) is amended as follows.

(2) In article 12(7) and (9)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 61(a) of Part 6 of Schedule 12, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Northumberland County Council (A1 – South East Northumberland Link Road (Morpeth Northern Bypass)) Development Consent Order 2015**

**79.** In article 18(7) of the Northumberland County Council (A1 – South East Northumberland Link Road (Morpeth Northern Bypass)) Development Consent Order 2015(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**A160/A180 (Port of Immingham Improvement) Development Consent Order 2015**

**80.**—(1) The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015(**e**) is amended as follows.

(2) In article 16(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In paragraph 17(a) of Part 2 of Schedule 8, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015**

**81.**—(1) The Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015(**f**) is amended as follows.

(2) In article 16(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2014/3263, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2014/3328, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2014/3331, to which there are amendments not relevant to these Regulations.
(**d**) S.I. 2015/23.
(**e**) S.I. 2015/129, to which there are amendments not relevant to these Regulations.
(**f**) S.I. 2015/147, to which there are amendments not relevant to these Regulations.

(3) In paragraph 11(3) of Schedule 2, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Dogger Bank Creyke Beck Offshore Wind Farm Order 2015**

**82.** In article 17(7) of the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Ship Recycling Facilities Regulations 2015**

**83.** In regulation 2 of the Ship Recycling Facilities Regulations 2015(**b**), in the definitions of "permit" and "suspension notice", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015**

**84.** In Schedule 2 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015(**c**)—

(a) in Part 1, for "Environmental Permitting (England and Wales) Regulations 2010" substitute "Environmental Permitting (England and Wales) Regulations 2016";

(b) in Part 2, for "Environmental Permitting (England and Wales) Regulations 2010" substitute "Environmental Permitting (England and Wales) Regulations 2016".

**Control of Major Accidents Hazards Regulations 2015**

**85.**—(1) The Control of Major Accidents Hazards Regulations 2015(**d**) are amended as follows.

(2) In regulation 2—

(a) omit the definition of "the 2010 Regulations";

(b) in the appropriate place insert—

""the 2016 Regulations" means the Environmental Permitting (England and Wales) Regulations 2016;".

(3) In regulation 21(1), for "the 2010 Regulations" substitute "the 2016 Regulations".

(4) In regulation 25(7)(c) and (11)(a), for "the 2010 Regulations" substitute "the 2016 Regulations".

**Town and Country Planning (General Permitted Development) (England) Order 2015**

**86.** In Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(**e**)—

(a) in section L.3 of Part 7, in the definitions of "waste management facility" and "waste operation", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

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(**a**) S.I. 2015/318, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2015/430.
(**c**) S.I. 2015/462, to which there are amendments not relevant to these Regulations.
(**d**) S.I. 2015/483, to which there are amendments not relevant to these Regulations.
(**e**) S.I. 2015/596, amended by S.I. 2016/332; there are other amending instruments but none is relevant.

(b) in section N.1 of Part 17, in the definition of "groundwater", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Nitrate Pollution Prevention Regulations 2015**

**87.** In regulation 2(1) of the Nitrate Pollution Prevention Regulations 2015(**a**), in the definition of "anaerobic digestion", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Knottingley Power Plant Order 2015**

**88.** In article 15(7) of the Knottingley Power Plant Order 2015(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Network Rail (Ordsall Chord) Order 2015**

**89.** In article 17(7) of the Network Rail (Ordsall Chord) Order 2015(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Environmental Damage (Prevention and Remediation) (England) Regulations 2015**

**90.**—(1) The Environmental Damage (Prevention and Remediation) (England) Regulations 2015(**d**) are amended as follows.

(2) In the heading of regulation 10, and in regulation 10(1), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In regulation 11(1), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(4) In paragraph 1(a) of Schedule 4, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**White Moss Landfill Order 2015**

**91.** In article 9(7) of the White Moss Landfill Order 2015(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015**

**92.** In article 17(7) of the Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2015/668.
(**b**) S.I. 2015/680, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2015/780.
(**d**) S.I. 2015/810, to which there are amendments not relevant to these Regulations.
(**e**) S.I. 2015/1317.
(**f**) S.I. 2015/1347.

**Hazardous Waste (Miscellaneous Amendments) Regulations 2015**

**93.** In paragraph 3 of Schedule 2 to the Hazardous Waste (Miscellaneous Amendments) Regulations 2015(**a**), in the definitions of "permit" and "standard rule", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Swansea Bay Tidal Generating Station Order 2015**

**94.** In article 13(7) of the Swansea Bay Tidal Generating Station Order 2015(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Preesall Underground Gas Storage Facility Order 2015**

**95.** In article 15(7) of the Preesall Underground Gas Storage Facility Order 2015(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Progress Power (Gas Fired Power Station) Order 2015**

**96.**—(1) The Progress Power (Gas Fired Power Station) Order 2015(**d**) is amended as follows.

(2) In article 2(1), in the definition of "gross rated electrical output", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 15(7) and (8)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Hirwaun Generating Station Order 2015**

**97.**—(1) The Hirwaun Generating Station Order 2015(**e**) is amended as follows.

(2) In article 2(1), in the definition of "gross rated electrical output", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 14(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Dogger Bank Teesside A and B Offshore Wind Farm Order 2015**

**98.** In article 18(7) of the Dogger Bank Teesside A and B Offshore Wind Farm Order 2015(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Ferrybridge Multifuel 2 Power Station Order 2015**

**99.**—(1) The Ferrybridge Multifuel 2 Power Station Order 2015(**g**) is amended as follows.

(2) In article 2(1), for the definition of "2010 Regulations" substitute—

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(**a**) S.I. 2015/1360.
(**b**) S.I. 2015/1386, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2015/1561, to which there are amendments not relevant to these Regulations.
(**d**) S.I. 2015/1570, to which there are amendments not relevant to these Regulations.
(**e**) S.I. 2015/1574, to which there are amendments not relevant to these Regulations.
(**f**) S.I. 2015/1592.
(**g**) S.I. 2015/1832, to which there are amendments not relevant to these Regulations.

""2016 Regulations" means the Environmental Permitting (England and Wales) Regulations 2016;".

(3) In article 12(7) and (8), for "the 2010 Regulations" substitute "the 2016 Regulations".

(4) In paragraph 49(1) of Schedule 2, in the definition of "environmental permit", for "the 2010 Regulations" substitute "the 2016 Regulations".

**Network Rail (Tinsley Chord) Order 2015**

**100.** In article 8(8) of the Network Rail (Tinsley Chord) Order 2015(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Large Combustion Plants (Transitional National Plan) Regulations 2015**

**101.** In regulation 2(1) of the Large Combustion Plants (Transitional National Plan) Regulations 2015(**b**), in the definitions of "permit" and "permitting functions", for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Port Talbot Steelworks Generating Station Order 2015**

**102.** In article 10(7) of the Port Talbot Steelworks Generating Station Order 2015(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**London Underground (Bank Station Capacity Upgrade) Order 2015**

**103.** In article 17(7) of the London Underground (Bank Station Capacity Upgrade) Order 2015(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**East Midlands Gateway Rail Freight Interchange and Highway Order 2016**

**104.** In article 22(7) of the East Midlands Gateway Rail Freight Interchange and Highway Order 2016(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**National Grid (Hinkley Point C Connection Project) Order 2016**

**105.** In article 16(7), (8) and (10)(b) of the National Grid (Hinkley Point C Connection Project) Order 2016(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016**

**106.** In paragraph 2 of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016(**g**), at sub-paragraph 3(g) of the table, in paragraph (ii) of column 2—

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(**a**) S.I. 2015/1876.
(**b**) S.I. 2015/1973.
(**c**) S.I. 2015/1984.
(**d**) S.I. 2015/2044.
(**e**) S.I. 2016/17.
(**f**) S.I. 2016/49.
(**g**) S.I. 2016/58 (W. 28).

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text, for "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

**A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016**

**107.** In article 15(7) of the A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016(**a**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Palm Paper Mill Generating Station Order 2016**

**108.** In article 10(7) and (8)(c) of the Palm Paper Mill Generating Station Order 2016(**b**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Thorpe Marsh Gas Pipeline Order 2016**

**109.** In article 17(7) and (8)(b) of the Thorpe Marsh Gas Pipeline Order 2016(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**Water Resources (Control of Pollution) (Oil Storage) (Wales) Regulations 2016**

**110.** In regulation 3(3) of the Water Resources (Control of Pollution) (Oil Storage) (Wales) Regulations 2016(**d**)—

(a) in the English language text, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in the Welsh language text, for "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010" substitute "Reoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016".

**Onshore Hydraulic Fracturing (Protected Areas) Regulations 2016**

**111.** In regulation 2(4) of the Onshore Hydraulic Fracturing (Protected Areas) Regulations 2016(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**The Midland Metro (Birmingham City Centre Extension, etc.) (Land Acquisition and Variation) Order 2016**

**112.** In article 15(7) of the Midland Metro (Birmingham City Centre Extension, etc.) (Land Acquisition and Variation) Order 2016(**f**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2016/73.
(**b**) S.I. 2016/166.
(**c**) S.I. 2016/297.
(**d**) S.I. 2016/359 (W. 112).
(**e**) S.I. 2016/384.
(**f**) S.I. 2016/545.

**The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016**

**113.**—(1) The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016(**a**) is amended as follows.

(2) In article 3 of Part 1—

(a) in paragraph (1)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (2), for "Schedule 23ZA (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2010" substitute "Schedule 25 (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 17(6) of Part 4, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**The Midland Metro (Wolverhampton City Centre Extension) Order 2016**

**114.**—(1) Part 2 of the Midland Metro (Wolverhampton City Centre Extension) Order 2016(**b**) is amended as follows.

(2) In article 6—

(a) in paragraph (9), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016";

(b) in paragraph (10), for "Schedule 23ZA (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2010" substitute "Schedule 25 (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 20(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**The York Potash Harbour Facilities Order 2016**

**115.** In article 14(7) of the York Potash Harbour Facilities Order 2016(**c**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**The Meaford Gas Fired Generating Station Order 2016**

**116.** In article 16(6) of the Meaford Gas Fired Generating Station Order 2016(**d**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**The North Wales Wind Farms Connection Order 2016**

**117.** In article 16(8) of the North Wales Wind Farms Connection Order 2016(**e**), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2016/547.
(**b**) S.I. 2016/684.
(**c**) S.I. 2016/772.
(**d**) S.I. 2016/779.
(**e**) S.I. 2016/818.

**The Hornsea Two Offshore Wind Farm Order 2016**

**118.**—(1) The Hornsea Two Offshore Wind Farm Order 2016(**a**) is amended as follows.

(2) In article 3(1)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 15(7) and (9)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(4) In paragraph 5(a) of Part 6 of Schedule 12, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**The River Humber Gas Pipeline Replacement Order 2016**

**119.**—(1) The River Humber Gas Pipeline Replacement Order 2016(**b**) is amended as follows.

(2) In article 3(1)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 18(7) and (8)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(4) In paragraph 1(4)(a) of Part 4 of Schedule 10, for "the Environmental Permitting Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016**

**120.**—(1) The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016(**c**) is amended as follows.

(2) In article 16(6), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 17(7) and (8)(b), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

**The Triton Knoll Electrical System Order 2016**

**121.**—(1) The Triton Knoll Electrical System Order 2016(**d**) is amended as follows.

(2) In article 6(2)(a), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(3) In article 12(7), for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

(4) In paragraph 5(a) of Part 4 of Schedule 8, for "the Environmental Permitting (England and Wales) Regulations 2010" substitute "the Environmental Permitting (England and Wales) Regulations 2016".

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(**a**) S.I. 2016/844.
(**b**) S.I. 2016/853.
(**c**) S.I. 2016/863.
(**d**) S.I. 2016/880.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide a consolidated system of environmental permitting in England and Wales. They replace the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675).

These Regulations transpose provisions of 15 Directives which impose obligations required to be delivered through permits or capable of being delivered through permits.

Part 1 contains general provisions, in particular interpretation.

Regulation 8 defines the term "regulated facility" and regulation 12 requires every regulated facility to be operated under the authority of an environmental permit.

The combined classes of "regulated facility" include (unless they are exempt or excluded) every installation, mobile plant, waste operation, mining waste operation, radioactive substances activity, water discharge activity, groundwater activity and flood risk activities, whether or not carried on as part of the operation of another regulated facility. Those terms are defined in regulation 2(1) and in Schedules 1, 9, 20 to 23 and 25.

The term "exempt facility" is defined in regulation 5. Schedule 2 sets out the procedures in relation to exempt facilities, including registration requirements.

Part 2 sets out the procedures in relation to environmental permits.

Regulations 13 (grant of a permit), 20 (variation of a permit), 21 (transfer of a permit) and 25 (surrender of a permit), with Part 1 of Schedule 5, regulate permit applications. Regulation 20 also provides for variation of a permit on the initiative of the regulator. Regulation 24 allows certain permits to be surrendered by notification. Regulation 15 and Part 2 of Schedule 5 provide for compensation where a permit condition requires interference with the property rights of a person other than the operator. Regulation 17 allows more than one regulated facility on the same site, or with the same operator, to be authorised by the same permit in some circumstances. Regulation 18 allows for the consolidation of separate permits. Regulations 22 and 23 provide for the revocation of a permit on the initiative of the regulator. Regulations 26 to 30 provide for the preparation of standard rules applying to a description of regulated facility, which may be incorporated into a permit at the request of an operator. Regulation 31 and Schedule 6 provide for appeals.

Part 3 provide for the discharge of functions by the regulator in relation to permits. Regulation 32 sets the regulator for different classes or description of regulated facility and regulation 33 allows for a change of regulator at the direction of the Secretary of State or the Welsh Ministers. Regulation 34 requires the regulator periodically to review permits and to inspect regulated facilities. Regulation 35 and Schedules 7 to 25 require the regulator to exercise its functions so as to comply with the duties set out in those Schedules. Each Schedule requires the regulator to ensure compliance with a specified Directive or Directives (where applicable) when exercising its functions in relation to a regulated facility falling within the Schedule's scope.

Part 4 contains enforcement-related provisions. Regulations 36 and 37 provide for enforcement notices (requiring compliance with a permit) and suspension notices (suspending the authorisation of the operation of a regulated facility). Regulation 38 contains offences and regulation 40 provides for defences. Regulation 39 sets the penalties on conviction and provides for enforcement undertakings.

Part 5 make provision for public registers to be kept by the regulator, including information which may be kept off the register in the interests of national security or because it is confidential in nature8

Part 6 confers powers on the regulator, Secretary of State and Welsh Ministers and imposes duties on the regulator. This Part includes power for the regulator to prevent or remedy pollution and to recover associated costs from the operator (regulation 57), a requirement on the appropriate agency to publish a public participation statement (regulation 60), and power for the Secretary of

State or Welsh Ministers to make schemes setting fees and charges in relation to local authority functions under these Regulations.

Part 7 contains miscellaneous provisions. By virtue of regulation 1(2), the provisions in Schedules 28 and 29 (revocations and consequential amendments) extend to England and Wales only.

Regulation 80 requires the Secretary of State to review the operation and effect of these Regulations before the end of April 2019 and every 5 years thereafter and lay a report before Parliament.

Full impact assessments of the effect that the Environmental Permitting (England and Wales) Regulations 2010 and its amending instruments where appropriate will have on the costs of business and the voluntary sector are available from the Air Quality and Industrial Emissions Team at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or at www.legislation.gov.uk. No separate impact assessment has been produced for this instrument. An updated transposition note is submitted with the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.

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