
DRAFT STATUTORY INSTRUMENTS

2010 No.

The Environmental Permitting
(England and Wales) Regulations 2010

PART 7

Miscellaneous provisions

Chapter 4

Transitional provisions – the 2007 Regulations and former PPC or waste legislation

Existing environmental permits

- 86.** On the coming into force of these Regulations, an existing environmental permit—
- (a) becomes an environmental permit authorising the operation of a regulated facility under these Regulations; and
 - (b) has effect subject to any conditions that applied to it at the relevant time.

Applications under the 2007 Regulations

87.—(1) If an application for the grant, variation, transfer or surrender of an environmental permit under the 2007 Regulations was not determined by the relevant time, the application is taken to be made under these Regulations.

(2) The application is taken to be made on the date the application was made under the 2007 Regulations.

(3) Anything done under the 2007 Regulations in relation to the application before the coming into force of these Regulations is taken to be done under these Regulations.

Applications for grant of PPC permit or waste management licence

88.—(1) If the determination date for an application mentioned in regulation 70(1)(a) or (b) of the 2007 Regulations was not reached by the relevant time, the application is taken to be an application for the grant of an environmental permit.

(2) The application is taken to be made on the date the application was made under former PPC or waste legislation.

(3) Anything done under former PPC or waste legislation in relation to the application before the coming into force of these Regulations is taken to be done under these Regulations.

2007 transitional applications for grant of PPC permit, other than in relation to landfill

- 89.**—(1) This regulation applies where, by the relevant time—

- (a) an existing licence, other than a licence the whole or part of which authorises the operation of a landfill and the carrying on of any related activity, was the subject of an application to which regulation 71 of the 2007 Regulations applied; and
 - (b) the determination date had not been reached.
- (2) On the coming into force of these Regulations—
- (a) the application is taken to be an application for the grant of an environmental permit; and
 - (b) pending determination of the application, the licence has effect—
 - (i) as if it were an environmental permit, and
 - (ii) subject to any conditions that applied to it at the relevant time.
- (3) If on the determination of the application an environmental permit is granted, the licence—
- (a) becomes an environmental permit; and
 - (b) has effect subject to any conditions imposed on it under these Regulations.
- (4) If the application is withdrawn, or on the determination of the application an environmental permit is not granted, the licence no longer has effect.

2007 transitional applications for grant of PPC permit in relation to landfill

- 90.**—(1) This regulation applies where, by the relevant time —
- (a) an existing licence the whole or part of which authorises the operation of a landfill and the carrying on of any related activity was the subject of an application to which regulation 71 of the 2007 Regulations applied; and
 - (b) the determination date had not been reached.
- (2) On the coming into force of these Regulations—
- (a) the application is taken to be an application for the grant of an environmental permit; and
 - (b) pending determination of the application, the licence (or that part of the licence relating to the landfill and any related activity) has effect—
 - (i) as if it were an environmental permit, and
 - (ii) subject to any conditions that applied to it at the relevant time.
- (3) If on the determination of the application an environmental permit is granted, the licence—
- (a) becomes an environmental permit authorising the operation of the landfill and the carrying on of any related activity; and
 - (b) has effect subject to any conditions imposed on it under these Regulations.
- (4) If the application is withdrawn, or on the determination of the application an environmental permit is not granted, the licence (or that part of the licence relating to the landfill and any related activity)—
- (a) becomes an environmental permit authorising the carrying on of any related activity; and
 - (b) has effect subject to closure and after-care obligations.

2007 transitional applications for grant of PPC permit in relation to landfill: applications determined under the 2007 Regulations

- 91.**—(1) This regulation applies where—
- (a) an existing licence (or any part of an existing licence) authorising the operation of a landfill and the carrying on of any related activity was the subject of an application to which regulation 71 of the 2007 Regulations applied;

- (b) the application was determined under those Regulations; and
- (c) on the determination date, the licence did not become an environmental permit under those Regulations.

(2) On the coming into force of these Regulations, the licence (or that part of the licence relating to the landfill and any related activity)—

- (a) becomes an environmental permit authorising the carrying on of any related activity; and
- (b) has effect subject to closure and after-care obligations.

2007 transitional applications not relating to grant of PPC permit

92.—(1) If a PPC permit or waste management licence was the subject of a 2007 transitional application for variation, transfer or surrender and by the relevant time the determination date had not been reached—

- (a) on the coming into force of these Regulations, the permit or licence—
 - (i) becomes an environmental permit, and
 - (ii) has effect subject to any conditions that applied to it at the relevant time; and
- (b) the application is taken to be an application for the variation, transfer or surrender of an environmental permit under these Regulations.

(2) If a waste management licence was the subject of a 2007 transitional application for modification and by the relevant time the determination date had not been reached—

- (a) on the coming into force of these Regulations, the licence—
 - (i) becomes an environmental permit, and
 - (ii) has effect subject to any conditions that applied to it at the relevant time; and
- (b) the application is taken to be an application for the variation of an environmental permit under these Regulations.

(3) The application is taken to be made on the date the 2007 transitional application was made.

(4) Anything done before the coming into force of these Regulations under the 2007 Regulations or former PPC or waste legislation in relation to a 2007 transitional application is taken to be done under these Regulations.

Notifications of surrender

93. On the coming into force of these Regulations, a notification that was given under regulation 24(2) of the 2007 Regulations that had not taken effect by the relevant time is taken to be a notification under regulation 24(2).

Existing notices under the 2007 Regulations or former PPC or waste legislation

94. On the coming into force of these Regulations—

- (a) the following are taken to be enforcement notices—
 - (i) an existing enforcement notice served under the 2007 Regulations,
 - (ii) an existing notice served under regulation 24 of the PPC Regulations,
 - (iii) an existing notice served under section 42(5) of the 1990 Act;
- (b) the following are taken to be suspension notices—
 - (i) an existing suspension notice served under the 2007 Regulations,
 - (ii) an existing notice served under regulation 25 of the PPC Regulations,

- (iii) an existing notice served under section 38(6) of the 1990 Act;
- (c) the following are taken to be revocation notices—
 - (i) an existing revocation notice served under the 2007 Regulations,
 - (ii) an existing notice served under regulation 21 of the PPC Regulations,
 - (iii) an existing notice served under section 38(3) or (4) of the 1990 Act;
- (d) an existing closure notice served under regulation 16 of the Landfill (England and Wales) Regulations 2002 is taken to be a landfill closure notice.

Outstanding appeals against existing notices

95.—(1) Any outstanding appeal made under the 2007 Regulations or former PPC or waste legislation against an existing notice mentioned in regulation 94 is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the 2007 Regulations or former PPC or waste legislation.

(3) Anything done under the 2007 Regulations or former PPC or waste legislation in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, in which case that time limit applies.

Appeals under these Regulations against existing notices

96.—(1) An appeal may be made under these Regulations against an existing notice mentioned in regulation 94 if, by the relevant time, the time for making an appeal under the 2007 Regulations or former PPC or waste legislation had not expired.

(2) If an appeal is made under these Regulations against an existing notice, the applicable time limit for giving notice of appeal runs from the date the existing notice was served under the 2007 Regulations or former PPC or waste legislation.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, that time limit.

Decisions under the 2007 Regulations or former PPC or waste legislation

97. The following decisions are taken to be made under these Regulations—

- (a) a decision by a regulator or appropriate authority under the 2007 Regulations;
- (b) a decision by a regulator or appropriate authority under former PPC or waste legislation.

Outstanding appeals against decisions under the 2007 Regulations or former PPC or waste legislation

98.—(1) Any outstanding appeal made under the 2007 Regulations or former PPC or waste legislation against a decision mentioned in regulation 97 is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the 2007 Regulations or former PPC or waste legislation.

(3) Anything done under the 2007 Regulations or former PPC or waste legislation in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, in which case that time limit applies.

Appeals under these Regulations against decisions under the 2007 Regulations or former PPC or waste legislation

99.—(1) An appeal may be made under these Regulations against a decision mentioned in regulation 97 if, by the relevant time, the time for making an appeal under the 2007 Regulations or former PPC or waste legislation had not expired.

(2) If an appeal is made under these Regulations against a decision mentioned in regulation 97, the applicable time limit for giving notice of appeal runs from the date the decision was made under the 2007 Regulations or former PPC or waste legislation.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, that time limit.

Other existing notices and instruments

100.—(1) On the coming into force of these Regulations—

- (a) an existing notice served under regulation 26(3) of the PPC Regulations is taken to be served under regulation 57(3);
- (b) an existing notice served under regulation 28(1) of the PPC Regulations is taken to be a notice served under regulation 60(1); and
- (c) any existing instrument served or given under the 2007 Regulations and not otherwise provided for in this Chapter is taken to be served or given under these Regulations.

(2) An existing notice or existing instrument remains in force—

- (a) for the period (if any) specified in it; or
- (b) until it is withdrawn, revoked or expires under these Regulations.

(3) In this regulation, “instrument” has the meaning given in regulation 10 of the 2007 Regulations.

Existing directions under the 2007 Regulations

101.—(1) On the coming into force of these Regulations, any existing direction given to a regulator by the appropriate authority under any of the following provisions of the 2007 Regulations is taken to be given under the equivalent provision in these Regulations—

- (a) regulation 31(7);
- (b) regulation 33(1);
- (c) regulation 47(1) or (3);
- (d) regulation 56(1);
- (e) regulation 61;
- (f) regulation 62(1) or (6);
- (g) regulation 63(2).

(2) Any information excluded from a public register pursuant to an existing direction given under regulation 47(1) of the 2007 Regulations is taken to be notified under regulation 47(2) of these Regulations.

Public registers

102.—(1) Any information that, at the relevant time, was contained in a public register maintained by a regulator under the 2007 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 2007 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.

Existing exempt waste operations

103.—(1) This regulation applies to any establishment or undertaking which was carrying on an exempt waste operation under the 2007 Regulations as in force on 5th April 2010.

(2) The establishment or undertaking is taken to carry on an exempt waste operation under these Regulations until—

- (a) the date mentioned in paragraph (3); or
 - (b) if before that date the waste operation ceases to be an exempt waste operation within the meaning of the 2007 Regulations as in force on 5th April 2010, the date on which it ceases to be such.
- (3) The date mentioned in this paragraph is—
- (a) if an application for the grant or variation of an environmental permit is made in relation to the waste operation on or before the date shown in the table set out below for the operation (“the indicated date”)—
 - (i) if the application is granted, the date of the grant,
 - (ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn, or
 - (iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations;
 - (b) if the establishment or undertaking seeks to be registered in relation to the waste operation on or before the indicated date, the date of registration; or
 - (c) otherwise, the indicated date.

<i>Waste operation</i>	<i>Date</i>
A waste operation described in paragraph 9, 10, 12 or 19 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land	1st October 2011
A waste operation described in paragraph 13 or 21 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land	6th April 2012

<i>Waste operation</i>	<i>Date</i>
A waste operation described in paragraph 7 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land	1st October 2012
A waste operation described in paragraph 4 to 6, 11, 14, 15, 17, 18, 20, 22, 23, 25, 29 to 32, 38, 40 to 42 or 46 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of waste on agricultural land	1st October 2012
A waste operation described in paragraph 2, 3, 8, 24 or 43 to 45 of Part 1 of previous Schedule 3	1st October 2013
A waste operation described in paragraph 7, 9, 10, 12, 13, 16, 19, 21, 28, 36, 37 or 47 of Part 1 of previous Schedule 3 that involves the disposal or recovery of agricultural waste on agricultural land	1st October 2013
Any other waste operation described in Part 1 of previous Schedule 3 that involves the disposal or recovery of waste on agricultural land	1st October 2013

(4) In this regulation—

“agricultural land” means land used for agriculture within the meaning of section 109(3) of the Agriculture Act 1947(1);

“previous Schedule 3” means Schedule 3 to the 2007 Regulations as in force on 5th April 2010;

“registered” has the meaning given in paragraph 1 of Schedule 2; and

“relevant particulars” has the meaning given in paragraph 6(3) of Schedule 2.

Existing Part A(1) installations

104. On the coming into force of these Regulations, an installation that, at the relevant time, carried on a Part A(1) activity under the 2007 Regulations by virtue of paragraph 2(4) of Part 1 of Schedule 1 to those Regulations is taken to be a Part A(1) installation for the purpose of these Regulations.

Existing mining waste operations

105.—(1) Regulation 12(1) does not apply to an existing mining waste operation involving an existing mining waste facility until the date mentioned in paragraph (2).

(2) The date is—

(a) if an application for the grant or variation of an environmental permit is made on or before 1st May 2011—

(i) if the application is granted, the date of the grant,

(ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn,

(iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations, or

(iv) if the application is 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 and

(1) 1947 c. 48.

the application is refused pursuant to paragraph 14(2) of Schedule 20, the date of the refusal; or

(b) if no such application is made, 1st May 2011.

(3) Where an existing mining waste operation is not covered by paragraph (1), regulation 12(1) does not apply to that operation until the date mentioned in paragraph (4).

(4) The date is—

(a) if an application for the grant or variation of an environmental permit is made on or before 30th December 2010—

(i) if the application is granted, the date of the grant,

(ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn, or

(iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations; or

(b) if no such application is made, 30th December 2010.

(5) In this regulation, “existing mining waste operation” means a mining waste operation subsisting on 1st May 2008.