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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

The Environmental Permitting  
(England and Wales) Regulations 2010

PART 7

Miscellaneous provisions

Chapter 1

Interpretation

**Interpretation of this Part**

**67.** In this Part—

“2007 transitional application” means a transitional application within the meaning of Part 7 of the 2007 Regulations;

“authorisation” means an authorisation under section 13 or 14 of the 1993 Act;

“closure and after-care obligations” means any environmental permit condition—

- (a) which implements Article 13 of the Landfill Directive, or
- (b) which is otherwise related to closure and after-care of a landfill site or to ensuring that it does not cause pollution;

“determination date”—

- (a) for an application mentioned in regulation 70 of the 2007 Regulations (other than an application to which regulation 71 of those Regulations applied), has the meaning given in paragraph (2) of that regulation,
- (b) for an application to which regulation 71 of those Regulations applied, has the meaning given in paragraph (4) of that regulation;

“discharge consent” means a consent under Chapter 2 of Part 3 of the 1991 Act;

“disposal licence” means a disposal licence issued under section 5 of the Control of Pollution Act 1974;

“existing” means in force at the relevant time;

“existing environmental permit” means an environmental permit under the 2007 Regulations in force at the relevant time;

“existing notice” means, for the purposes of Chapter 3, a notice in force at the relevant time served or given by the Agency under a former enactment in relation to—

- (a) an authorisation, registration, discharge consent or groundwater permit, or
- (b) the requirement for a discharge consent or groundwater permit;

“existing permit” means an existing authorisation, registration, discharge consent or groundwater permit;

- “former enactment” means the 1991 Act, the 1993 Act or the 2009 Regulations;
- “former PPC or waste legislation” means any provision of the following enactments repealed or revoked by the 2007 Regulations—
- (a) the 1990 Act,
  - (b) the Waste Management Licensing Regulations 1994(1),
  - (c) the PPC Regulations,
  - (d) the Landfill (England and Wales) Regulations 2002(2);
- “groundwater permit” means a permit under regulation 13 of the 2009 Regulations;
- “licence” means a disposal licence or a waste management licence;
- “outstanding appeal” means an appeal made, but not determined, by the relevant time;
- “PPC permit” means a permit granted under regulation 10 of the PPC Regulations;
- “the PPC Regulations” means the Pollution Prevention and Control (England and Wales) Regulations 2000(3);
- “radioactive substances exemption order” means an order made, or having effect as if made, under section 8(6), 11(1) or 15(2) of the 1993 Act;
- “registration” means a registration under section 7 or 10 of the 1993 Act;
- “related activity” means any of the following activities relating to the operation of a landfill—
- (a) storage or treatment of leachate;
  - (b) utilization or flaring of landfill gas;
- “relevant time” means immediately before the coming into force of these Regulations;
- “transfer notice” means any of the following notices given before the coming into force of these Regulations in respect of a transfer which, at the relevant time, had not taken effect—
- (a) a joint notice given under paragraph 11(6)(a) of Schedule 10 to the 1991 Act for the purpose of the transfer of a discharge consent,
  - (b) a notice mentioned in paragraph (a) given for the purpose of the transfer of a groundwater permit;
- “transitional application” means any of the following applications not determined by the relevant time—
- (a) an application for an authorisation or registration,
  - (b) an application for the variation of an authorisation or registration,
  - (c) an application under section 16A of the 1993 Act for the transfer of an authorisation,
  - (d) an application under section 12 of the 1993 Act to cancel a registration,
  - (e) an application under section 17 of the 1993 Act to revoke an authorisation,
  - (f) an application for a discharge consent,
  - (g) an application for the variation of a discharge consent,
  - (h) an application for a groundwater permit; and
- “waste management licence” means a licence granted under section 35 of the 1990 Act.

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(1) 1994/1056, amended by S.I. 1995/288, 1995/1950, 1996/593, 1996/634, 1996/972, 1996/1279, 1997/2203, 1998/606, 1998/2746, 2000/1973, 2002/674, 2002/1087 (W. 114), 2002/1559, 2002/2980, 2003/595, 2003/780 (W. 91), 2003/2635, 2004/70 (W. 6), 2004/3276, 2005/894, 2005/1728, 2005/1806 (W. 138), 2005/2900, 2006/937, 2006/3315, 2007/1156 and 2007/2596.

(2) S.I. 2002/1559, revoked by S.I. 2007/3538.

(3) S.I. 2000/1973, revoked by S.I. 2007/3538.

## Chapter 2

### Further provision – waste and extractive waste

#### Further provision in relation to waste and extractive waste

- 68.**—(1) Schedule 25 (waste and extractive waste) has effect.
- (2) Section 33(1)(a) of the 1990 Act (prohibition on unauthorised deposit of waste)~~(4)~~—
- (a) does not apply to an operation which—
    - (i) falls within a description in Part 3 of Schedule 25, and
    - (ii) meets the conditions specified in that Part for an operation of 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.

## Chapter 3

### Transitional provisions - former enactments

#### Existing permits

- 69.** On the coming into force of these Regulations an existing 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.

#### Site plans not required for existing permits

- 70.** Regulation 14(4) does not apply in relation to a regulated facility—
- (a) authorised by an environmental permit by virtue of regulation 69(a); or
  - (b) authorised by an environmental permit granted on the determination of—
    - (i) a transitional application, or
    - (ii) an outstanding appeal.

#### Review of existing groundwater permits

- 71.**—(1) Any environmental permit that, at the relevant time, was a permit within the meaning of the 2009 Regulations and was granted before the coming into force of those Regulations must be reviewed before 22nd December 2012.
- (2) The regulator must on review assess compliance with the conditions of the permit.
- (3) If the operator fails to comply with any condition of the permit, the regulator must take appropriate steps to ensure compliance.

#### Radioactive substances exemption orders

- 72.** On the coming into force of these Regulations, the following become exemptions from the requirement for an environmental permit—
- (a) an exemption from registration under an existing radioactive substances exemption order;

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(4) 1990 c. 43; section 33(1)(a) was amended by [S.I. 2007/3538](#), Schedule 21, paragraph 4(2) and by [S.I. 2009/1799](#), Schedule 2, paragraph 1(3)(a).

- (b) an exclusion from the requirement for an authorisation under an existing radioactive substances exemption order.

### **Exempt water discharge activities**

73.—(1) In this regulation, “small sewage effluent water discharge activity” means 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) On the coming into force of these Regulations, a small sewage effluent water discharge activity authorised by an existing permit is taken to be an exempt facility.

### **Exempt groundwater activities**

74.—(1) In this regulation, “small sewage effluent groundwater activity” means the 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) On the coming into force of these Regulations, a small sewage effluent groundwater activity authorised by an existing permit is taken to be an exempt facility.

(3) From the coming into force of these Regulations until 1st January 2012, a person carrying on a groundwater activity taken to be an exempt facility under paragraph (2) does not require an environmental permit unless a notice is served on that person under paragraph 10 of Schedule 22 and has taken effect.

(4) From the coming into force of these Regulations until 1st January 2012, a small sewage effluent groundwater activity that, at the relevant time, was not authorised by an existing permit does not need to be authorised by an environmental permit or registered as an exempt facility unless—

- (a) a notice was served under the 2009 Regulations prohibiting the carrying on of the activity and that notice continues in effect under these Regulations; or
- (b) a notice under paragraph 10 of Schedule 22 is served on the person carrying on the activity and the notice has taken effect.

(5) A small sewage effluent groundwater activity that is begun after the coming into force of these Regulations does not need to be authorised by an environmental permit or registered as an exempt facility until 1st January 2012 unless a notice under paragraph 10 of Schedule 22 is served on the person carrying on the activity and the notice has taken effect.

(6) On and after 1st January 2012, a person must not carry on a small sewage effluent groundwater activity unless it is—

- (a) authorised by an environmental permit; or
- (b) registered as an exempt facility.

### **Transitional applications**

75.—(1) On the coming into force of these Regulations, a transitional application is taken to be an application for the grant, variation, transfer or surrender of an environmental permit.

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

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

(4) The public participation provisions apply to a transitional application under a former enactment unless—

- (a) the transitional application relates to a radioactive substances activity; or

- (b) under the former enactment there was no requirement for public participation in the application process.

### **Transfer notices under former enactments**

**76.**—(1) On the coming into force of these Regulations, a transfer notice is taken to be a joint notification under regulation 21(4).

(2) The joint notification is taken to be made on the date the transfer notice was made.

(3) Anything done under a former enactment in relation to a transfer notice before the coming into force of these Regulations is taken to be done under these Regulations.

### **Existing notices under former enactments**

**77.** On the coming into force of these Regulations—

- (a) an existing notice given under section 86(1)(b) of the 1991 Act in relation to a discharge from a highway drain or a discharge into the waters of any lake or pond which are not inland freshwaters becomes an environmental permit and has effect subject to any conditions that applied to it at the relevant time;
- (b) any requirements imposed under an existing notice served under section 20 of the 1993 Act in relation to an existing authorisation or registration which becomes an environmental permit by virtue of regulation 69(a) are taken to be conditions of the environmental permit;
- (c) an existing notice served under section 90B of the 1991 Act<sup>(5)</sup> or section 21 of the 1993 Act is taken to be an enforcement notice served under these Regulations;
- (d) an existing notice served under section 22 of the 1993 Act is taken to be a suspension notice served under these Regulations;
- (e) an existing notice served under regulation 18 of the 2009 Regulations prohibiting a course of action is taken to be a prohibition notice served under these Regulations; and
- (f) each of the following existing notices is taken to be a revocation notice served under these Regulations—
  - (i) an existing notice served under paragraph 7(2)(a) of Schedule 10 to the 1991 Act (discharge consents),
  - (ii) an existing notice served under regulation 16(5) of the 2009 Regulations (groundwater permits),
  - (iii) an existing notice given under section 12(2)(a) of the 1993 Act (registrations) in relation to the cancellation of a registration,
  - (iv) an existing notice given under section 17(3)(a) of the 1993 Act (authorisations) in relation to the revocation of an authorisation.

### **Outstanding appeals against existing notices**

**78.**—(1) Any outstanding appeal made under a former enactment against an existing notice 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 former enactment.

(3) Anything done under the former enactment in relation to the outstanding appeal is taken to be done under these Regulations.

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(5) Section 90B was inserted by the Environment Act 1995, section 120 and Schedule 22, paragraph 142.

(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 former enactment, in which case that time limit applies.

#### **Appeals under these Regulations against existing notices**

**79.**—(1) An appeal may be made under these Regulations against an existing notice if, by the relevant time, the time for making an appeal under the former enactment 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 former enactment.

(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 former enactment, that time limit.

#### **Decisions under former enactments**

**80.** A decision by a regulator or appropriate authority under a former enactment is taken to be made under these Regulations.

#### **Outstanding appeals against decisions under former enactments**

**81.**—(1) Any outstanding appeal made under a former enactment against a decision under that enactment 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 former enactment.

(3) Anything done under the former enactment 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 former enactment, in which case that time limit applies.

#### **Appeals under these Regulations against decisions under former enactments**

**82.**—(1) An appeal may be made under these Regulations against a decision under a former enactment if, by the relevant time, the time for making an appeal under the former enactment had not expired.

(2) If an appeal is made under these Regulations against a decision made under a former enactment, the applicable time limit for giving notice of appeal runs from the date the decision under the former enactment was made.

(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 former enactment, that time limit.

#### **Existing directions under former enactments**

**83.** On the coming into force of these Regulations—

- (a) an existing direction given to the Agency by the Secretary of State under section 23(1) of the 1993 Act is taken to be given under regulation 61; and

- (b) an existing direction given to the Agency by the Secretary of State under section 24(1) of the 1993 Act is taken to be given under regulation 62.

### **Public registers under former enactments**

**84.**—(1) On the coming into force of these Regulations, the following information is taken to be information contained on a public register under these Regulations—

- (a) any information that, at the relevant time—
- (i) was kept under section 39 of the 1993 Act, and
  - (ii) was publicly available;
- (b) any information in relation to discharge consents or groundwater permits that, at the relevant time, was kept under section 190 of the 1991 Act.

(2) The following decisions are taken to be final confidentiality decisions for the purposes of Part 5—

- (a) a decision by the Agency under section 191B of the 1991 Act<sup>(6)</sup> that information is commercially confidential in relation to any person;
- (b) a decision by the Agency under section 39(1) of the 1993 Act not to disclose information relating to any relevant process or trade secret.

(3) For the purposes of regulation 55, a final confidentiality decision by virtue of paragraph (2) is taken to be made on the coming into force of these Regulations.

(4) The following directions are taken to be given under regulation 47(1)—

- (a) a direction given under section 191A of the 1991 Act<sup>(7)</sup>;
- (b) a direction given under section 25 of the 1993 Act.

(5) A notification by the Agency under section 191A(3) of the 1991 Act is taken to be a notification under regulation 47(2).

### **Recovery of expenses for disposal of radioactive waste**

**85.**—(1) If, before the coming into force of these Regulations, the regulator disposed of radioactive waste in the exercise of its powers under section 30 of the 1993 Act but did not recover all expenses reasonably incurred by it under that section, the regulator may recover expenses under paragraph 4(2) of Part 3 of Schedule 23 to these Regulations.

(2) If, before the coming into force of these Regulations, the regulator disposed of radioactive waste in the exercise of its powers under section 30A of the 1993 Act<sup>(8)</sup> but did not recover all expenses reasonably incurred by it under that section, the regulator may recover expenses under paragraph 8(2) of Part 4 of Schedule 23 to these Regulations.

## **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

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<sup>(6)</sup> Section 191B was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 170.

<sup>(7)</sup> Section 191A was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 170.

<sup>(8)</sup> Section 30A was inserted by S.I. 2005/2686.

- (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
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(9);
  - “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 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.

## Chapter 5

### Savings and consequential provisions

#### Savings

**106.**—(1) Despite the revocation of the 2007 Regulations, and the revocation of regulation 12(10) of the PPC Regulations by the 2007 Regulations, any condition implied in a permit by that regulation that continued in effect under the 2007 Regulations and had effect at the relevant time continues to have effect under these Regulations.

(2) Despite the revocation of regulation 44 of the End-of-Life Vehicles Regulations 2003 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.

(3) Despite the amendments made by regulation 6 of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which amend regulation 38 of the 2007 Regulations), regulation 38(2) of the 2007 Regulations, as in force at the relevant time, continues in force for the purposes of regulation 103 of these Regulations.

(4) Despite the amendments made by regulation 13(2) of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which amend section 41 of the 1995 Act by omitting subsection (2A)(10) and by omitting the definition of “relevant environmental licence” in subsection (10)), those subsections, as in force at the relevant time, continue in force for the purposes of regulation 103 of these Regulations.

(5) Despite the substitution made by regulation 13(3) of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which substitutes paragraph (j) in the definition of “environmental licence” in section 56(1) of the 1995 Act), the definition of “environmental licence” in that paragraph, as in force at the relevant time, continues in force for the purposes of regulation 103 of these Regulations.

#### Consequential amendments

**107.** Schedule 26 (consequential amendments) has effect.

#### Revocations

**108.**—(1) The instruments in Schedule 27 (revocations) are revoked to the extent specified.

(2) Despite the revocation of regulations 10 and 11 of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009(11), and of Schedules 2 and 3 to the 2007 Regulations, those Schedules (as in force at the relevant time) continue in force for the purpose of regulation 103 of these Regulations.

(3) Despite the revocation of regulation 68A of the 2007 Regulations(12), a condition implied in a permit by that regulation that had effect at the relevant time continues to have effect under these Regulations.

(4) Despite the revocation of regulation 69(5) and (6) of the 2007 Regulations, a condition implied in a permit by regulation 69(6) of those Regulations that had effect at the relevant time continues to have effect under these Regulations.

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(10) Subsection (2A) was inserted by [S.I. 2006/937](#).

(11) [S.I. 2009/3381](#).

(12) Regulation 68A was inserted by [S.I. 2009/890](#).

## Repeals

**109.**—(1) The enactments in Schedule 28 (repeals) are repealed to the extent specified.

(2) Despite its repeal by these Regulations, Schedule 10 to the 1991 Act continues in force, subject to the following modifications, insofar as it provides for the vesting of a discharge consent or groundwater permit on the death of the holder of a consent or permit—

- (a) a discharge consent or groundwater permit is taken to be an environmental permit authorising the carrying on of a stand-alone water discharge activity or stand-alone groundwater activity;
- (b) the holder of the consent or groundwater permit is taken to be the operator of the regulated facility;
- (c) the vesting of a consent or groundwater permit in a person on the death of the holder of a consent or groundwater permit is taken to be the granting of an environmental permit under these Regulations;
- (d) the person in whom a consent or groundwater permit vests is taken to be the operator of the regulated facility;
- (e) a making of a discharge is taken to be the carrying on of a water discharge activity or groundwater activity, whichever is applicable in the circumstances.

(3) Despite its repeal by these Regulations, section 88 of the 1991 Act continues in force so far as necessary for continuing to give effect to Schedule 10 to that Act.