
STATUTORY INSTRUMENTS

1991 No. 513

ENVIRONMENTAL PROTECTION

The Environmental Protection (Authorisation of Processes) (Determination Periods) Order 1991

<i>Made</i>	- - - -	<i>7th March 1991</i>
<i>Laid before Parliament</i>		<i>8th March 1991</i>
<i>Coming into force</i>		
<i>in England and Wales</i>		<i>1st April 1991</i>
<i>in Scotland</i>		<i>1st April 1992</i>

The Secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales, and the Secretary of State for Scotland, as respects Scotland, in exercise of the powers conferred upon them by paragraph 5(3) of Schedule 1 to the Environmental Protection Act 1990⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Environmental Protection (Authorisation of Processes) (Determination Periods) Order 1991 and shall come into force in England and Wales on 1st April 1991 and in Scotland on 1st April 1992.

(2) In this Order “the 1990 Act” means the Environmental Protection Act 1990.

Extension of period for consideration of applications in cases involving information affecting national security or certain confidential information

2.—(1) Subject to article 3(6) below, in the case of an application to which paragraph (2) below applies, for the period mentioned in paragraph 5(1) of Schedule 1 to the 1990 Act there shall be substituted the period mentioned in paragraph (3) below.

(2) This paragraph applies to an application for an authorisation to carry on a process in relation to which—

- (a) a matter falls to be determined by the Secretary of State under section 21(2) or (4) of the 1990 Act;

(1) 1990 c. 43.

- (b) an application is made to an enforcing authority under section 22(2) of that Act; or
- (c) an objection is made to such an authority under section 22(4) of that Act.

(3) The period to be substituted in paragraph 5(1) of Schedule 1 to the 1990 Act is the period of four months beginning with the day on which the matters to be determined under section 21 or 22 of that Act are finally disposed of or such longer period as the enforcing authority may agree with the applicant.

(4) For the purposes of paragraph (3) above and article 3(6) below, the matters to be determined under section 21 or 22 of the 1990 Act are finally disposed of—

- (a) on the date on which the Secretary of State determines under section 21 whether or not the information in question is to be included in the register;
- (b) on the date on which the enforcing authority is treated under section 22(3) as having made a determination;
- (c) in a case where the enforcing authority determines under section 22(2) that the information in question is commercially confidential, on the date of the authority's determination;
- (d) in a case where the enforcing authority determines under section 22(2) or (4) that the information in question is not commercially confidential, on the date on which the period for bringing an appeal expires without an appeal being brought or, if such an appeal is brought within that period, on the date of the Secretary of State's final determination of the appeal or, as the case may be, the date on which the appellant withdraws his appeal.

Extension of period for consideration of applications by local authorities

3.—(1) Subject to paragraph (6) below, in the case of an application to which paragraph (2) below applies, for the period mentioned in paragraph 5(1) of Schedule 1 to the 1990 Act there shall be substituted—

- (a) in England and Wales, the period of eighteen months;
- (b) in Scotland, the period of fifteen months,

beginning with the day on which the enforcing authority received the application or within such longer period as it may agree with the applicant.

(2) This paragraph applies to an application for an authorisation to carry on a process which—

- (a) falls within the description set out in paragraph (c) of Part B of section 1.3 in Schedule 1 to the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(2) (burning waste oil to produce energy);
- (b) involves only the use of one or more appliances having a net rated thermal input, or aggregate net rated thermal input, not exceeding 0.4 megawatts; and
- (c) is an existing process for which the prescribed date is, in the case of a process carried on in England or Wales, that referred to in paragraph 11(1)(ii) of Schedule 3 to those Regulations and, in the case of a process carried on in Scotland, that referred to in paragraph 24(1)(ii) of that Schedule.

(3) Subject to paragraph (6) below, in the case of an application to which paragraph (4) below applies, for the period mentioned in paragraph 5(1) of Schedule 1 to the 1990 Act there shall be substituted, the period of fourteen days beginning with the day on which the enforcing authority received the application or within such longer period as it may agree with the applicant.

(4) This paragraph applies to an application for an authorisation to carry on any process which—

- (a) is not an existing process;

(b) falls within paragraph (2)(a) and (b) above; and

(c) does not involve the burning of waste oil generated otherwise than as a result of activities carried on by the applicant on the premises where the process is to be carried on.

(5) Subject to paragraph (6) below, in the case of an application for an authorisation to carry on any existing process subject to local control which is described in paragraph (2)(c) above but does not fall within paragraph (2)(a) and (b) above, for the period mentioned in paragraph 5(1) of Schedule 1 to the 1990 Act there shall be substituted—

(a) in England and Wales, the period of twelve months;

(b) in Scotland, the period of nine months,

beginning with the day on which the enforcing authority received the application or within such longer period as it may agree with the applicant.

(6) In the case of an application to which paragraph (2), (4) or (5) above applies and to which article 2(2) above also applies, the period mentioned in paragraph (1), (3) and (5) above shall begin with the day on which the matters to be determined under section 21 or 22 of the 1990 Act are finally disposed of.

(7) In this article, “existing process” has the same meaning as in the Environmental Protection (Prescribed Processes and Substances) Regulations 1991.

7th March 1991

Michael Heseltine
Secretary of State for the Environment

7th March 1991

David Hunt
Secretary of State for Wales

7th March 1991

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order varies the period available to enforcing authorities to consider applications under Part I of the Environmental Protection Act 1990 for authorisation to carry on prescribed processes.

Where the exclusion from public registers of information affecting national security or certain confidential information is to be considered, article 2 of the Order provides for the period laid down in the Act (4 months beginning with the day the enforcing authority receives the application) to begin when that consideration is completed.

Article 3 of the Order makes provision in relation to processes for which local authority authorisation is required in accordance with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991.

Article 3 generally extends the period laid down in the Act (4 months) to 12 months in England and Wales and 9 months in Scotland for processes which are existing processes when those Regulations come into force: but

- (i) a period of 14 days is specified for new small heating installations using waste or recovered oil generated on the same premises such as heaters in commercial garages using oil drained from vehicles there;
- (ii) a period of 18 months or, in Scotland, 15 months is specified for other existing small heating installations using waste or recovered oil.