
STATUTORY INSTRUMENTS

2000 No. 1973

**The Pollution Prevention and Control
(England and Wales) Regulations 2000**

PART I

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pollution Prevention and Control (England and Wales) Regulations 2000 and shall come into force on the 1st August 2000.

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

(3) For the purpose of paragraph (2), “England and Wales” includes the territorial waters adjacent to England and Wales.

Interpretation: general

2.—(1) In these Regulations, except in so far as the context otherwise requires—

“change in operation” means, in relation to an installation or mobile plant, a change in the nature or functioning or an extension of the installation or mobile plant which may have consequences for the environment; and “substantial change in operation” means, in relation to an installation or mobile plant, a change in operation which, in the opinion of the regulator, may have significant negative effects on human beings or the environment;

“the Directive” means Council Directive [96/61/EC](#) concerning integrated pollution prevention and control⁽¹⁾;

“emission” means—

- (i) in relation to Part A installations, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in an installation into the air, water or land;
- (ii) in relation to Part B installations, the direct release of substances or heat from individual or diffuse sources in an installation into the air;
- (iii) in relation to Part A mobile plant, the direct or indirect release of substances, vibrations, heat or noise from the mobile plant into the air, water or land;
- (iv) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air;

“emission limit value” means the mass, expressed in terms of specific parameters, concentration or level of an emission, which may not be exceeded during one or more periods of time;

“enforcement notice” has the meaning given by regulation 24(1);

(1) OJNo. L 257, 10.10.96, p. 26.

“general binding rules” has the meaning given by regulation 14(1);

“installation” means—

- (i) a stationary technical unit where one or more activities listed in Part 1 of Schedule 1 are carried out; and
- (ii) any other location on the same site where any other directly associated activities are carried out which have a technical connection with the activities carried out in the stationary technical unit and which could have an effect on pollution,

and, other than in Schedule 3, references to an installation include references to part of an installation;

“mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise and which is used to carry out one or more activities listed in Part 1 of Schedule 1;

“off-site condition” has the meaning given by regulation 12(12);

“operator”, subject to paragraph (2), means, in relation to an installation or mobile plant, the person who has control over its operation;

“Part A installation”, “Part A(1) installation”, “Part A(2) installation” and “Part B installation” shall be interpreted in accordance with Part 3 of Schedule 1;

“Part A mobile plant”, “Part A(1) mobile plant”, “Part A(2) mobile plant” and “Part B mobile plant” shall be interpreted in accordance with Part 3 of Schedule 1;

“permit” means a permit granted under regulation 10;

“pollution” means emissions as a result of human activity which may be harmful to human health or the quality of the environment, cause offence to any human senses, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment; and “pollutant” means any substance, vibration, heat or noise released as a result of such an emission which may have such an effect;

“regulator” means, in relation to the exercise of functions under these Regulations, the authority by whom, under regulation 8, the functions are exercisable; and “local authority regulator” means a regulator which is a local authority as defined in regulation 8(15) and (16);

“revocation notice” has the meaning given by regulation 21(1);

“specified waste management activity” means any one of the following activities—

- (a) the disposal of waste in a landfill, whether or not the disposal falls within Section 5.2 of Part 1 of Schedule 1;
- (b) the disposal of waste falling within Section 5.3 of that Part of that Schedule;
- (c) the recovery of waste falling within paragraphs (i), (ii), (v) or (vii) of paragraph (c) of Part A(1) of Section 5.4 of that Part of that Schedule;

“substance” includes any chemical element and its compounds and any biological entity or micro-organism, with the exception of radioactive substances within the meaning of Council Directive 80/836/Euratom⁽²⁾, genetically modified micro-organisms within the meaning of Council Directive 90/219/EEC⁽³⁾ and genetically modified organisms within the meaning of Council Directive 90/220/EEC⁽⁴⁾;

“suspension notice” has the meaning given by regulation 25(1);

“variation notice” has the meaning given by regulation 17(5).

(2) For the purposes of these Regulations—

⁽²⁾ OJ No. L 246, 17.9.80, p. 1, as amended by Council Directive 84/467/Euratom (OJ L 265, 5.10.84, p. 4).

⁽³⁾ OJ No. L 117, 8.5.90, p. 1.

⁽⁴⁾ OJ No. L 117, 8.5.90, p. 15.

- (a) where an installation or mobile plant has not been put into operation, the person who will have control over the operation of the installation or mobile plant when it is put into operation shall be treated as the operator of the installation or mobile plant;
 - (b) where an installation or mobile plant has ceased to be in operation, the person who holds the permit which applies to the installation or mobile plant shall be treated as the operator of the installation or mobile plant.
- (3) In these Regulations—
- (a) a reference to a release into water includes a release into a sewer (within the meaning of section 219(1) of the Water Industry Act 1991⁽⁵⁾);
 - (b) a reference to a Council Directive is a reference to that Directive together with any amendment made before the date on which these Regulations are made.
- (4) Part 1 of Schedule 1 shall be interpreted in accordance with the provisions as to interpretation in Part 1 and 2 of that Schedule.
- (5) Parts 1 and 2 of Schedule 3 shall be interpreted in accordance with Part 3 of that Schedule.

Interpretation: “best available techniques”

3.—(1) For the purpose of these Regulations, “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 designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole; and for the purpose of this definition—

- (a) “available techniques” means those techniques which have been developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the cost and advantages, whether or not the techniques are used or produced inside the United Kingdom, as long as they are reasonably accessible to the operator;
 - (b) “best” means, in relation to techniques, the most effective in achieving a high general level of protection of the environment as a whole;
 - (c) “techniques” includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.
- (2) Schedule 2 shall have effect in relation to the determination of best available techniques.

Fit and proper person

4.—(1) This regulation applies for the purpose of the discharge of any function under these Regulations which requires the regulator to determine whether a person is or is not a fit and proper person to carry out a specified waste management activity.

(2) Whether a person is or is not a fit and proper person to carry out a specified waste management activity shall be determined by reference to the fulfilment of the conditions of the permit which apply or will apply to the carrying out of that activity.

(3) Subject to paragraph (4), a person shall be treated as not being a fit and proper person if it appears to the regulator that—

- (a) he or another relevant person has been convicted of a relevant offence;
- (b) the management of the specified waste management activity which is or is to be carried out is not or will not be in the hands of a technically competent person; or

(5) 1991 c. 56.

- (c) the person who holds or is to hold the permit has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the permit in relation to the specified waste management activity.
- (4) The regulator may, if it considers it proper to do so in any particular case, treat a person as a fit and proper person notwithstanding that paragraph (3)(a) applies in his case.
- (5) For the purposes of paragraph (3)—
 - (a) “relevant offence” means an offence prescribed under section 74(6) of the Environmental Protection Act 1990(6) for the purposes of section 74(3)(a) of that Act; and
 - (b) the qualifications and experience required of a person for the purposes of section 74(3)(b) of that Act which are prescribed under section 74(6) of that Act shall be treated as the qualifications and experience required of a person for the purposes of paragraph (3)(b).
- (6) In paragraph (3)(a), “another relevant person” means, in relation to the holder or proposed holder of a permit—
 - (a) any person who has been convicted of a relevant offence committed by him in the course of his employment by the holder or proposed holder of the permit or in the course of the carrying on of any business by a partnership one of the members of which was the holder or proposed holder of the permit;
 - (b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder of the permit was a director, manager, secretary or other similar officer of that body corporate; or
 - (c) where the holder or proposed holder of the permit is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate and who—
 - (i) has been convicted of a relevant offence; or
 - (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a relevant offence for which that other body corporate has been convicted was committed.

Application to the Crown

- 5.—(1) Subject to the provisions of this regulation, these Regulations bind the Crown.
- (2) No contravention by the Crown of any provision of these Regulations shall make the Crown criminally liable under regulation 32 and no proceedings may be taken against the Crown under regulation 33 but the High Court may, on the application of a regulator, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Notwithstanding anything in paragraph (2), the provisions of these Regulations shall apply to persons in the public service of the Crown as they apply to other persons.
- (4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any specified powers of entry exercisable under section 108 of the Environment Act 1995(7) in relation to functions conferred or imposed by these Regulations, that it is requisite or expedient that, in the interests of national security, the powers of entry should not be exercisable in relation to the premises, those powers shall not be exercisable in relation to those premises; and in this paragraph “specified” means specified in the certificate and “Crown premises” means premises held or used by or on behalf of the Crown.
- (5) The following persons shall be treated as if they were the operator of the installation or mobile plant concerned for the purpose of any notice served or given or any proceedings instituted in relation to an installation or mobile plant operated or controlled by any person acting on behalf

(6) 1990 c. 43; see regulation 3 of the Waste Management Licensing Regulations 1994 (S.I.1994/1056).

(7) 1995 c. 25.

of the Royal Household, the Duchy of Lancaster or the Duke of Cornwall or other possessor of the Duchy of Cornwall—

- (a) in relation to an installation or mobile plant operated or controlled by a person acting on behalf of the Royal Household, the Keeper of the Privy Purse;
- (b) in relation to an installation or mobile plant operated or controlled by a person acting on behalf of the Duchy of Lancaster, such person as the Chancellor of the Duchy appoints in relation to that installation or mobile plant;
- (c) in relation to an installation or mobile plant operated or controlled by a person acting on behalf of the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints in relation to that installation or mobile plant.

Notices

6.—(1) Any notice served or given under these Regulations by the Secretary of State or a regulator shall be in writing.

(2) Any such notice may be served on or given to a person by leaving it at his proper address or by sending it by post to him at that address.

(3) Any such notice may—

- (a) in the case of a body corporate, be served on the secretary or clerk of that body;
- (b) in the case of a partnership, be served on or given to a partner or person having the control or management of the partnership business.

(4) For the purpose of this regulation and of section 7 of the Interpretation Act 1978(7) (service of documents by post) in its application to this regulation, the proper address of any person on or to whom any such notice is to be served or given shall be his last known address, except that—

- (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
- (b) in the case of a partnership or person having the control or management of the partnership business, it shall be the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.

(5) If the person to be served with or given any such notice has specified an address in the United Kingdom other than his proper address within the meaning of paragraph (4) as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 as his proper address.

Applications

7.—(1) A regulator may require any application or type of application made to it under any provision of these Regulations to be made on a form made available by the regulator.

(2) A form made available by a regulator under paragraph (1) shall specify the information required by the regulator to determine the application, which shall include any information required to be contained in the application by the provision of these Regulations under which the application is made.

(3) Where a regulator makes available a form under paragraph (1) in relation to the making of applications to it under a provision of these Regulations any application made to it under that provision shall be made on that form.

(4) Any application made under these Regulations may, with the agreement of the regulator, be sent to the regulator electronically.

(5) Where an application which is required to be accompanied by a fee, map or plan is sent electronically, the fee, map or plan may be sent to the regulator separately from the application but the application shall not be treated as having been received by the regulator until the fee, map or plan has also been received.

(6) An application made under these Regulations may be withdrawn at any time before it is determined.

Discharge and scope of functions

8.—(1) This regulation determines the authority by whom the functions conferred or imposed by these Regulations on a regulator are exercisable and the purposes for which they are exercisable.

(2) Those functions, in their application to a Part A(1) installation or Part A(1) mobile plant, shall be functions of the Environment Agency⁽⁸⁾ and shall be exercisable 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.

(3) Subject to regulation 13, those functions, in their application to a Part A(2) installation or Part A(2) mobile plant, shall be functions of the local authority in whose area the installation is (or will be) situated or the mobile plant is (or will be) operated and shall be exercisable 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.

(4) Those functions, in their application to a Part B installation, shall be functions of the local authority in whose area the installation is (or will be) situated and shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(5) Those functions, in their application to a Part B mobile plant, shall be functions of—

- (a) where the operator of the mobile plant has his principal place of business in England and Wales, the local authority in whose area that place of business is;
- (b) where the operator of the mobile plant has his principal place of business outside of England and Wales and the mobile plant is not covered by a permit, the local authority in whose area the plant is first operated or, where the plant has not been operated in England and Wales, the local authority in whose area it is intended by the operator that the plant should first be operated;
- (c) where the operator has his principal place of business outside of England and Wales and the mobile plant is covered by a permit, the local authority which granted the permit,

and shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(6) The Secretary of State may, as respects functions under these Regulations exercisable by a local authority specified in the direction, direct that those functions shall be exercised instead by the Environment Agency while the direction remains in force or during a period specified in the direction.

(7) A transfer of functions under paragraph (6) to the Environment Agency relating to Part B installations or Part B mobile plant does not make them exercisable by the Agency for any other purpose than that mentioned in paragraphs (4) and (5).

(8) See section 1 of the Environment Act 1995 (1995 c. 25).

(8) The Secretary of State may, as respects functions under these Regulations exercisable by the Environment Agency specified in the direction, direct that those functions shall be exercised instead by a local authority while the direction remains in force or during a period specified in the direction.

(9) A direction under paragraph (6) may transfer functions exercisable by a local authority in relation to all or any description of installations or mobile plant (a “general direction”) or in relation to a specific installation or mobile plant specified in the direction (a “specific direction”) but a direction under paragraph (8) may only be a specific direction.

(10) A direction under paragraph (6) or (8) may include such saving and transitional provisions as the Secretary of State considers necessary or expedient.

(11) The Secretary of State, on giving or withdrawing a general direction under paragraph (6), shall—

(a) serve notice of it on the Environment Agency and on the local authorities affected by the direction; and

(b) cause notice of it to be published as soon as practicable in the London Gazette and in at least one newspaper circulating in the area of each authority affected by the direction,

and any such notice shall specify the date on which the direction is to take (or took) effect and (where appropriate) its duration.

(12) The Secretary of State, on giving or withdrawing a specific direction under paragraph (6) or (8), shall—

(a) serve notice on the Environment Agency, the local authority and the operator or the person appearing to the Secretary of State to be the operator of the installation or mobile plant affected; and

(b) cause notice of it to be published in the London Gazette and in at least one newspaper circulating in the authority’s area,

and any such notice shall specify the date on which the direction is to take (or took) effect and (where appropriate) its duration.

(13) The requirements of sub-paragraph (b) of paragraph (11), or, as the case may be, sub-paragraph (b) of paragraph (12) shall not apply in any case where, in the opinion of the Secretary of State, the publication of the notice in accordance with that sub-paragraph would be contrary to the interests of national security.

(14) It shall be the duty of regulators to follow developments in best available techniques.

(15) In this regulation, “local authority” means, subject to paragraph (16)—

(a) in Greater London, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;

(b) in England outside Greater London, a district council or, in relation to an area for which there is a county council but no district council, the county council, and the Council of the Isles of Scilly;

(c) in Wales, a county council or county borough council.

(16) Where, by an order under section 2 of the Public Health (Control of Disease) Act 1984(9), a port health authority has been constituted for any port health district, the port health authority shall have, as respects its district, the functions conferred or imposed by these Regulations in their application to a Part B installation; and “local authority” and “area” shall be construed accordingly.

Status: *This is the original version (as it was originally made).*
