

SCHEDULE 4

Regulation 10

GRANT OF PERMITS

PART 1:

APPLICATIONS FOR PERMITS

1.—(1) An application to a regulator for a permit under regulation 10 shall be in writing and, subject to paragraphs 2 and 3, shall contain the following information—

- (a) the name of the applicant, his telephone number and address (including post code) and, if different, any address to which correspondence relating to the application should be sent and, if the applicant is a body corporate, its registered number, the address of its registered or principal office and, if that body corporate is a subsidiary of a holding company (within the meaning of section 736 of the Companies Act 1985⁽¹⁾), the name of the ultimate holding company and the address of its registered or principal office;
- (b) in the case of an application for a permit to operate an installation or Part A mobile plant, the address of the site of the installation or mobile plant and its national grid reference, a map or plan showing that site and, in the case of an installation, the location of the installation on that site, and the name of any local authority in whose area the site is situated;
- (c) in the case of an application for a permit to operate a Part B mobile plant, the name of the local authority in whose area the applicant has his principal place of business and the address of that place of business or, where the operator of the mobile plant has his principal place of business outside of England and Wales, the name of the local authority in whose area the plant was 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 will first be operated;
- (d) in the case of an application for a permit to operate a Part A installation or a Part A mobile plant, a site report containing the information required by sub-paragraph (2);
- (e) a description of the installation or mobile plant, the activities listed in Part 1 of Schedule 1 to be carried out in the installation or by means of the mobile plant, and, in the case of an installation, any other directly associated activities to be carried out on the same site as the installation which will have a technical connection with those listed activities and which could have an effect on pollution;
- (f) the raw and auxiliary materials and other substances and the energy to be used in or generated by the carrying out of the activities referred to in paragraph (e);
- (g) the nature, quantities and sources of foreseeable emissions from the installation or mobile plant into each environmental medium, and a description of any foreseeable significant effects of the emissions on the environment;
- (h) the proposed technology and other techniques for preventing or, where that is not practicable, reducing emissions from the installation or mobile plant;
- (i) the proposed measures to be taken to monitor the emissions;
- (j) a description of the measures to be taken for the prevention and recovery of waste generated by the operation of the installation or mobile plant;

(1) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

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- (k) a description of any proposed additional measures to be taken to comply with the general principles set out in regulation 11;
- (l) in the case of an application for a permit to operate a Part A installation, any relevant information obtained or conclusion arrived at in relation to the installation pursuant to articles 5, 6 and 7 of Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment⁽²⁾;
- (m) in the case of an application for a permit to operate an installation or mobile plant covered by general binding rules, a statement as to whether the applicant wishes the aspects of the operation of the installation or mobile plant covered by the requirements in the rules to be subject to those requirements instead of conditions included in the permit pursuant to regulation 12;
- (n) in the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation or by means of mobile plant, any information which the applicant wishes the regulator to take into account when considering whether the applicant is a fit and proper person to carry out that activity;
- (o) any additional information which the applicant wishes the regulator to take into account in considering the application;
- (p) a non-technical summary of the information referred to in the previous sub-paragraphs.

(2) The site report required by paragraph 1(1)(d) shall describe the condition of the site of the installation or Part A mobile plant and shall, in particular, identify any substance in, on or under the land which may constitute a pollution risk.

2. Paragraph 1(1)(f), (j) and (p) shall not apply in relation to an application for a permit to operate a Part B installation or a Part B mobile plant, and, in relation to such an application, the reference to emissions from the installation or mobile plant into each environmental medium in paragraph 1(1)(g) shall be read as a reference to emissions from the installation or mobile plant into the air.

3.—(1) Paragraph 1(1) shall apply in relation to an application for a permit to operate an installation involving the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts as if, in so far as the installation is concerned with the carrying out of that activity, the following sub-paragraphs were substituted for sub-paragraphs (e) to (h)—

- “(e) the name and number, if any, of the appliance used for the burning of the waste oil, and the name of its manufacturer, its rated thermal input and whether or not it is constructed or adapted so as to comply with the specification for fixed, flued fan-assisted heaters in Part 2 of the specification for oil-burning air heaters published by the British Standards Institution and numbered BS 4256 1972;
- (f) details of the type of fuel to be used and its source;
- (g) details of the height and location of any chimney through which waste gases produced by the appliance would be carried away and details of the efflux velocity of the waste gases leaving such a chimney produced by the appliance in normal operation;
- (h) details of the location of the fuel storage tanks of the appliance;”.

(2) In this paragraph and in paragraphs 8 and 10 “waste oil” has the same meaning as in Section 1.1 of Part 1 of Schedule 1.

4. The regulator may, by notice to the applicant, require him to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining the application and if the applicant fails to furnish the specified information within

(2) OJNo. L 175, 5.7.85, p. 40 (as amended by Council Directive [97/11/EC](#) (OJ No. L 73, 14.3.97, p. 5)).

the period specified the application shall, if the regulator gives notice to the operator that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

5. Subject to paragraph 23, the applicant shall, within a period of 28 days beginning 14 days after the date on which his application is made, advertise the application—

- (a) in the case of an application for a permit to operate an installation or Part A mobile plant, in one or more newspapers circulating in the locality in which the installation or mobile plant covered by the application will be operated;
- (b) in the case of an application for a permit to operate a Part A installation or Part A mobile plant, in the London Gazette.

6. An advertisement required by paragraph 5 shall:

- (a) state the name of the applicant;
- (b) in the case of an application for a permit to operate an installation or Part A mobile plant, state the address of the site of the installation or mobile plant;
- (c) describe briefly the activities in Part 1 of Schedule 1 to be carried out in the installation or mobile plant;
- (d) state that the application contains a description of any foreseeable significant effects of emissions from the installation or mobile plant on the environment;
- (e) state where any register which contains particulars of the application may be inspected and that it may be inspected free of charge;
- (f) explain that any person may make representations in writing to the regulator within the period of 28 days beginning with the date of the advertisement and give the regulator's address for receiving the representations;
- (g) explain that any such representations made by any person will be entered in a public register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request.

7. Where an application is for a permit to operate more than one installation or mobile plant the application and the advertisement required by paragraph 5 shall contain the information required by paragraphs 1 and 6 respectively in relation to each installation or mobile plant.

8. Paragraph 5 shall not apply in relation to an application for a permit to operate an installation involving only the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts or the carrying out of an activity falling within paragraph (d) of Part B of Section 1.2 of Part 1 of Schedule 1 (unloading of petrol at service stations).

PART 2:

DETERMINATION OF APPLICATIONS

9.—(1) Subject to paragraph 23, the regulator shall, within 14 days of receiving an application for a permit, give notice of the application, enclosing a copy of it, to the following persons—

- (a) in the case of an application for a permit to operate an installation or Part A mobile plant, the Health Authority in whose area the installation or mobile plant will be operated;
- (b) in the case of an application for a permit to operate a Part A installation or Part A mobile plant—

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- (i) the Food Standards Agency⁽³⁾;
 - (ii) where the operation of the installation or mobile plant may involve the release of any substance into a sewer vested in a sewerage undertaker, that undertaker;
 - (iii) where the operation of the installation or mobile plant may involve an emission which may affect a site of special scientific interest or a European site, the Nature Conservancy Council for England, where the site is in England, the Countryside Council for Wales, where the site is in Wales, and Scottish National Heritage, where the site is in Scotland⁽⁴⁾;
 - (iv) where the operation of the installation or mobile plant may involve the release of any substance into a harbour managed by a harbour authority, that harbour authority;
 - (v) where the operation of the installation or mobile plant may involve the release of any substance directly into relevant territorial waters or coastal waters within the sea fisheries district of a local fisheries committee, that committee;
 - (vi) where the application will be determined by the Environment Agency, the local authority regulator in whose area the installation or mobile plant will be operated;
 - (vii) where the application will be determined by a local authority regulator, the Environment Agency;
 - (viii) where the operation of the installation or mobile plant will involve the carrying out of a specified waste management activity, the relevant planning authority;
 - (ix) where the installation or the mobile plant will be operated in Wales, the Secretary of State for Wales;
- (c) in the case of an application for a permit to operate a Part B installation where the operation of the installation may involve an emission which may affect a site of special scientific interest or a European site, the Nature Conservancy Council for England, where the site is in England, the Countryside Council for Wales, where the site is in Wales, and Scottish National Heritage, where the site is in Scotland;
- (d) in the case of an application for a permit to operate a Part A installation or a Part B installation on a site in respect of which a nuclear site licence is required under section 1 of the Nuclear Installations Act 1965⁽⁵⁾, a major accident prevention policy document is required under regulation 5 of the Control of Major Accident Hazards Regulations 1999⁽⁶⁾ or a safety report is required under regulation 7 of those Regulations, the Health and Safety Executive⁽⁷⁾;
- (e) in the case of an application for a permit to operate a Part B installation involving only the carrying out of an activity falling within paragraph (d) of Part B of Section 1.2 of Part 1 of Schedule 1 (unloading of petrol at service stations), the petroleum licensing authority for that installation;
- (f) in the case of all applications, such other persons as the Secretary of State may direct.
- (2) In sub-paragraph (1)—
- “European site” has the same meaning as in regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994⁽⁸⁾;

⁽³⁾ See section 1 of the Food Standards Act 1999 (c. 28).

⁽⁴⁾ See section 128 of the Environmental Protection Act 1990 (c. 43) and section 1 of the Natural Heritage (Scotland) Act 1991 (c. 28).

⁽⁵⁾ 1965 c. 57: section 1 was amended by S.I.1974/2056 and S.I. 1990/1918.

⁽⁶⁾ S.I. 1999/743.

⁽⁷⁾ See section 10 of the Health and Safety at Work etc Act 1974 (c. 37).

⁽⁸⁾ S.I. 1994/2716; regulation 10(1) was amended by S.I. 2000/192.

“harbour authority” has the same meaning as in section 57(1) of the Harbours Act 1964⁽⁹⁾;

“health authority” means an authority established under section 8 of the National Health Service Act 1977⁽¹⁰⁾;

“local fisheries committee” means a committee constituted under section 1(1)(c) of the Sea Fisheries Regulation Act 1966⁽¹¹⁾ and the reference to the sea fisheries district of such a committee refers to the district of that committee created under section 1(1)(a) of that Act;

“petroleum licensing authority” means a local authority empowered to grant petroleum spirit licences under the Petroleum (Consolidation) Act 1928⁽¹²⁾;

“relevant planning authority” means, in relation to an application for a permit to operate an installation which will involve the carrying out of a specified waste management activity, the authority to whom it would fall to determine an application for planning permission authorising the use of the application site for the carrying out of that activity under the Town and Country Planning Act 1990 (assuming that there was no direction under section 77 of that Act⁽¹³⁾ (reference of applications to the Secretary of State)).

10. Paragraph 9 shall not apply in relation to an application for a permit to operate an installation involving only the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts.

11.—(1) If the regulator proposes to grant a permit subject to an off-site condition, it shall, before granting the permit, give a notice which complies with sub-paragraph (2) to every person appearing to it to be a person falling within sub-paragraph (3).

(2) A notice served under sub-paragraph (1) shall—

- (a) set out the off-site condition in question;
- (b) indicate the nature of the works or things which that condition might require the holder of the permit to carry out or do; and
- (c) specify the period allowed for the purpose of paragraph 12 for making representations to the regulator relating to the condition or its possible effects and the manner in which any such representations are to be made.

(3) A person falls within this sub-paragraph if—

- (a) he is the owner, lessee or occupier of land; and
- (b) that land is land in relation to which it is likely that, as a consequence of the permit being issued subject to the off-site condition in question, rights will have to be granted by virtue of regulation 12(12) to the holder of the permit.

(4) In sub-paragraph (2), “owner” means the person who—

- (a) is for the time being receiving the rack-rent of the land, whether on his own account or as agent or trustee for another person; or
- (b) would receive the rack-rent if the land were let at a rack-rent,

but does not include a mortgagee not in possession.

12.—(1) Any representations made by any persons within the period allowed shall be considered by the regulator in determining the application.

⁽⁹⁾ 1964 c. 40.

⁽¹⁰⁾ 1977 c. 49; section 8 was substituted by section 1(1) of the Health Authorities Act 1995 (c. 17).

⁽¹¹⁾ 1966 c. 38; section 1 was amended by the Local Government Act 1972 (c. 70), Schedule 30 and the Local Government Act 1985 (c. 51), Schedule 8.

⁽¹²⁾ 1928 c. 32 (18 & 19 Geo.V).

⁽¹³⁾ Section 77 was amended by the Planning and Compensation Act 1991 (c. 34), Schedule 7, paragraph 18.

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- (2) For the purpose of sub-paragraph (1), the period allowed for making representations is:
- (a) in the case of any person to whom notice is given pursuant to paragraph 9 or 11, the period of 28 days beginning with the date on which notice is given under the relevant paragraph;
 - (b) in the case of any other person, the period of 28 days beginning with the date on which the application is advertised pursuant to paragraph 5.

13. In the case of an application for a permit to operate a Part A installation, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment in relation to the installation shall be taken into consideration by the regulator in determining the application.

14.—(1) The Secretary of State may give directions to the regulator requiring that any particular application or any class of applications for a permit shall be referred to him for determination pending a further direction under sub-paragraph (6).

(2) The regulator shall inform the applicant of the fact that his application is being referred to the Secretary of State and forward to the Secretary of State any representations which have been made to the regulator within the period allowed.

(3) Where an application for a permit is referred to him under sub-paragraph (1), the Secretary of State may afford the applicant and the regulator an opportunity of appearing before and being heard by a person appointed by him and he shall do so in any case where a request is duly made by the applicant or the regulator to be so heard.

(4) A request under sub-paragraph (3) shall be in writing and shall be made within the period of 21 days beginning with the day on which the applicant is informed that the application is being referred to the Secretary of State.

(5) Sub-paragraphs (2) to (10) of paragraph 4 of Schedule 8 shall apply to a hearing held under sub-paragraph (3) as they apply to a hearing held under paragraph 4(1) of that Schedule, but with the following modifications—

- (a) with the substitution in sub-paragraph (3) for the reference to the appellant of a reference to the applicant;
- (b) with the substitution in sub-paragraph (4)—
 - (i) for the reference to the appeal of a reference to the application; and
 - (ii) for the reference to every person mentioned in paragraph 3(1)(a) of Schedule 8 and every person mentioned in paragraph 3(1)(b) and (c) of that Schedule who has made representations in writing to the Secretary of State of a reference to every person who was required to be given notice under paragraph 9 of this Schedule and to any person who made representations to the regulator with respect to the subject matter of the application;
- (c) with the substitution in sub-paragraph (7)—
 - (i) for the reference in sub-paragraph (7)(a) to the appellant of a reference to the applicant;
 - (ii) for the reference in sub-paragraph (7)(c) to any person required under paragraph 3(1)(a) of Schedule 8 to be notified of the appeal of a reference to any person required under paragraph 9 of this Schedule to be notified of the application.

(6) The Secretary of State shall, on determining any application transferred to him under this paragraph, give to the regulator such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the permit.

15.—(1) Except in a case where an application has been referred to the Secretary of State under paragraph 14 and subject to paragraph 18, the regulator shall give notice of its determination of an application for a permit within the period of four months beginning with the day on which it received the application or within such longer period as may be agreed with the applicant.

(2) For the purpose of calculating the period of four months mentioned in sub-paragraph (1) no account shall be taken of—

- (a) any period beginning with the date on which notice is served on the applicant under paragraph 4 and ending on the date on which the applicant furnishes the information specified in the notice;
- (b) any period allowed for making representations in relation to a notice given pursuant to paragraph 11 in so far as that period does not overlap with any other period allowed for making representations in accordance with paragraph 12;
- (c) where a matter falls to be determined under regulation 30 or 31, any period beginning with the date on which the period of 28 days referred to in paragraph 5 ends and ending on the date on which the application is advertised in accordance with paragraph 23(a).

16. If the regulator fails to give notice of its determination of an application for a permit within the period allowed by or under paragraph 15, the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

17. Where the Secretary of State is aware that the operation of an installation carrying out an activity listed in Annex I to the Directive in England or Wales is likely to have significant negative effects on the environment of another member State, or where another member State likely to be significantly affected so requests, the Secretary of State shall forward a copy of the application to operate that installation to the other member State at the same time as the application is advertised pursuant to paragraph 5 (or as soon as he becomes so aware or receives such a request, if he becomes so aware or receives such a request after the application is advertised but before the application is determined) in order that the application may serve as the basis for any consultations necessary in the framework of the bilateral relations between the United Kingdom and the other member State on a reciprocal and equivalent basis, as referred to in Article 17 of the Directive.

18.—(1) Where an application is forwarded to another member State pursuant to paragraph 17 the Secretary of State shall notify the applicant and the regulator and, in a case where the application has not been referred to the Secretary of State under paragraph 14—

- (a) the regulator shall not determine the application until the Secretary of State has notified it in writing that the bilateral consultations mentioned in paragraph 17 have been completed and has forwarded to it any representations duly made on the application by persons in the other member State which have been forwarded to the Secretary of State; and
- (b) the period of four months within which to give notice of determination of the application set out in paragraph 15 shall begin on the date on which the regulator receives the Secretary of State's notification that the bilateral consultations have been completed.

(2) In determining an application which is forwarded to another member State pursuant to paragraph 17 the regulator, or the Secretary of State if the application has been referred to him, shall take into consideration any representations duly made in the other member State which have been forwarded to the Secretary of State.

19. In paragraphs 17 and 18, “member state” shall be taken to include Norway, Iceland and Liechtenstein⁽¹⁴⁾.

(14) The Directive is extended to the European Economic Area by the decision of the EEA Joint Committee No. 27/97 of 30.4.97 (OJ No. L 242, 4.9.97, p. 76).

PART 3:

NATIONAL SECURITY AND CONFIDENTIAL INFORMATION

20. The requirements of paragraph 5 of this Schedule shall not apply in so far as they would require the advertisement of information mentioned in paragraph 6 which is not to be included in the register by virtue of regulation 30 or 31.

21. Subject to paragraph 22, the requirements of paragraph 9(1)(b)(ii), (iii) and (iv) and (c) shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 30 or 31.

22. Paragraph 21 does not apply in so far as—

- (a) in the case of a person mentioned in paragraph 9(1)(b)(ii), the information is about the release of any substance into a sewer vested in that person;
- (b) in the case of a person mentioned in paragraph 9(1)(b)(iii) and (c), the information is about the release of any substance which may affect a site of special scientific interest or European site (as defined in paragraph 9(2));
- (c) in the case of a person mentioned in paragraph 9(1)(b)(iv), the information is about the release of any substance into a harbour managed by that person.

23. Where a matter falls to be determined under regulation 30 or 31—

- (a) the period within which an advertisement is to be published under paragraph 5 shall be 28 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of;
- (b) the period for notification under paragraph 9(1) of this Schedule shall be the period of 14 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of.

24. For the purpose of paragraph 23, the matters to be determined under regulation 30 or 31 are finally disposed of—

- (a) in a case where the Secretary of State determines under regulation 30 whether or not information is to be included in the register, on the date on which the Secretary of State so determines;
- (b) in a case where the regulator determines under regulation 31(2) or (5) that the information in question is commercially confidential, on the date of the regulator's determination;
- (c) in a case where the regulator determines under regulation 31(2) or (5) 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 appeal is withdrawn.