STATUTORY INSTRUMENTS

2016 No. 475

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES
FLOOD RISK MANAGEMENT, ENGLAND AND WALES

The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016

Made - - - -	*24th March 2016*
Coming into force - -	*6th April 2016*

These Regulations are made by the Secretary of State in relation to England and the Welsh Ministers in relation to Wales, in exercise of the powers conferred by sections 61 and 90 of, and Schedule 8 to, the Water Act 2014(**1**).

In accordance with section 61(5) of the Water Act 2014, the Secretary of State and the Welsh Ministers have consulted—

(a) the Environment Agency;

(b) the Natural Resources Body for Wales;

(c) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate;

(d) such other bodies or persons as they consider appropriate.

In accordance with section 61(3) of that Act, the Secretary of State and the Welsh Ministers have had regard to the desirability of reducing burdens by ensuring that so far as is reasonably practicable any system established by regulations under that section is combined with, or is consistent with, systems for regulating activities or other matters that cause pollution.

A draft of this instrument has been approved by a resolution of each House of Parliament and by the National Assembly for Wales pursuant to sections 62(7) and (8) and 90(3) of the Water Act 2014.

(**1**) 2014 c. 21. Section 61(9) contains the definition of "the Minister".

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations may be cited as the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016.

(2) These Regulations come into force on 6th April 2016.

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

(4) These Regulations do not apply in relation to the Isles of Scilly.

(5) In these Regulations, "the 1991 Act" means the Water Resources Act 1991(**2**).

Amendment of the Environmental Permitting (England and Wales) Regulations 2010

2. The Environmental Permitting (England and Wales) Regulations 2010(**3**) (referred to in these Regulations as "the principal Regulations") are amended in accordance with regulations 3 to 28.

Amendment of regulation 2 (interpretation: general)

3. In regulation 2(1)—

(a) after the definition of "confidential information" insert—

""culvert" has the meaning given in paragraph 3 of Part 1 of Schedule 23ZA;";

(b) after the definition of "disposal" insert—

""drainage" has the meaning given in paragraph 2 of Part 1 of Schedule 23ZA;";

(c) after the definition of "establishment" insert—

""excluded flood risk activity" has the meaning given in paragraph 4 of Part 1 of Schedule 23ZA;";

(d) after the definition of "exempt facility" insert—

""exempt flood risk activity" has the meaning given in regulation 5;";

(e) after the definition of "extractive waste" insert—

""flood defence structure" has the meaning given in paragraph 2 of Part 1 of Schedule 23ZA;

"flood risk activity" has the meaning given in paragraph 3 of Part 1 of Schedule 23ZA;

"flood risk activity emergency works notice" means a notice served under paragraph 7 of Part 1 of Schedule 23ZA;

"flood risk activity notice of intent" means a notice served under paragraph 9(2) of Part 1 of Schedule 23ZA;

"flood risk activity remediation notice" means a notice served under paragraph 8 of Part 1 of Schedule 23ZA;";

(f) after the definition of "local authority" insert—

""main river" has the meaning given in paragraph 2 of Part 1 of Schedule 23ZA;";

(g) after the definition of "non-hazardous waste" insert—

""non-tidal main river" has the meaning given in paragraph 2 of Part 1 of Schedule 23ZA;";

(h) after the definition of "relevant territorial waters" insert—

(**2**) 1991 c. 57.
(**3**) S.I. 2010/675; relevant amending instruments are S.I. 2012/630, 2013/390, 2015/664 and 1756.

""remote defence" has the meaning given in paragraph 3 of Part 1 of Schedule 23ZA;";

(i) after the definition of "revocation notice" insert—

""river control works" has the meaning given in paragraph 3 of Part 1 of Schedule 23ZA;";

(j) after the definition of "rule-making authority" insert—

""sea defence" has the meaning given in paragraph 3 of Part 1 of Schedule 23ZA;";

(k) after the definition of "standard facility" insert—

""stand-alone flood risk activity" means a flood risk activity that is not carried on as part of the operation of a regulated facility of another class;"

(l) after the definition of "suspension notice" insert—

""tidal main river" has the meaning given in paragraph 2 of Part 1 of Schedule 23ZA;";

(m) after the definition of "waste operation" insert—

""watercourse" has the meaning given in paragraph 2 of Part 1 of Schedule 23ZA;".

Amendment of regulation 5 (interpretation: exempt facilities)

4. Regulation 5(1) is amended as follows—

(a) in the definition of "exempt facility"—

(i) omit the word "or" immediately preceding paragraph (b);

(ii) at the end, add—

", or

(d) an exempt flood risk activity";

(b) after the definition of "exempt facility" insert—

""exempt flood risk activity" means a flood risk activity that meets the requirements of paragraph 5B of Schedule 2;".

Amendment of regulation 7 (interpretation: operate a regulated facility and operator)

5. In regulation 7, in paragraph (b) of the definition of "operate a regulated facility"(**4**), for "or solvent emission activity" substitute ", solvent emission activity or flood risk activity".

Amendment of regulation 8 (interpretation: regulated facility and class of regulated facility)

6.—(1) In regulation 8(1)(**5**), at the end of sub-paragraph (i) add—

"(j) a flood risk activity".

(2) In regulation 8(2), at the end of sub-paragraph (c) add—

"(d) an excluded flood risk activity".

(3) In regulation 8(4)(**6**), at the end of sub-paragraph (f) add—

(**4**) Paragraph (b) of this definition was amended by S.I. 2013/390.
(**5**) Regulation 8(1) was amended by S.I. 2013/390.
(**6**) Regulation 8(4) was amended by S.I. 2013/390.

"(g) a flood risk activity".

Amendment of regulation 9 (interpretation: relevant function)

7. At the end of regulation 9 add—

"(g) exercising the power to serve a flood risk activity emergency works notice, a flood risk activity notice of intent or a flood risk activity remediation notice,

(h) exercising the power to take steps under paragraph 9(1) of Part 1 of Schedule 23ZA".

Substitution of regulation 15

[F1]8. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 17 (single site permits etc.)

[F1]9. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 18 (consolidation of an environmental permit)

[F1]10. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 20 (variation of an environmental permit)

[F1]11. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 21 (transfer of an environmental permit)

[F1]12. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 24 (notification of surrender of an environmental permit)

[F1]13. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 31 (appeals to an appropriate authority)

[F1]14. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 35 (specific provisions applying to environmental permits)

[F1]15. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 36 (enforcement notices)

[F1]16. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 37 (suspension notices)

[F1]17. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)

Amendment of regulation 38 (offences)

[F1]18. . . . . . .

Annotations:

F1 Regulations revoked in part (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 28** (with regs. 1(3), 77-79, Sch. 4)