Draft Regulations laid before Parliament and the National Assembly for Wales under section 2(8)and (9)(d) of the Pollution Prevention and Control Act 1999 for approval by resolution of each House of Parliament and of the Assembly.

DRAFT STATUTORY INSTRUMENTS

2013 No.

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Environmental Permitting (England and Wales) (Amendment) Regulations 2013

Made - - - - ***
Coming into force in accordance with regulation 2(1) to (4)

These Regulations are made in exercise of the powers conferred by sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(**1**).

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, have in accordance with section 2(4) of the Pollution Prevention and Control Act 1999 consulted(**2**)—

(a) the Environment Agency;

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

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

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 section 2(8) and (9)(d)(**3**) of that Act.

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, make the following Regulations.

(**1**) 1999 c. 24. Paragraph 25 of Schedule 1 was amended by section 105(1)(a) and (b) of the Clean Neighbourhoods and Environment Act 2005 (c. 16). There are other amendments to Schedule 1, none of which is relevant to these Regulations. Functions of the Secretary of State under section 2 (except in relation to offshore oil and gas exploration and exploitation), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 3 of S.I. 2005/1958. Those functions were then transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**2**) The requirement in that section to consult the bodies and persons mentioned was transferred from the National Assembly for Wales to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

(**3**) The reference in section 2(8) to each House of Parliament has effect in relation to the exercise of functions by the Welsh Ministers as if it included a reference to the National Assembly for Wales, by virtue of section 162 of, and paragraph 33 of Schedule 11 to, the Government of Wales Act 2006.

PART 1

General

Citation

1. These Regulations may be cited as the Environmental Permitting (England and Wales) (Amendment) Regulations 2013.

Commencement and application

2.—(1) Save as provided in paragraphs (2), (3) and (4), these Regulations come into force on the day after the day on which they are made.

(2) Regulation 58(2) comes into force on 7th January 2014.

(3) Regulation 58(3) comes into force on 1st January 2016.

(4) Regulation 4(6), (8), (12) and (15) and regulation 5 come into force in relation to existing installations on 7th January 2014.

(5) In these Regulations—

(a) "existing installation" means an installation where a Part A activity is carried on—

(i) which is in operation on or before 7th January 2013, or

(ii) in respect of which a duly made application for an environmental permit is submitted before 7th January 2013 and which commences operation on or before 7th January 2014,

provided that an environmental permit has been granted in respect of such operation;

(b) "environmental permit" and "installation" have the same definition as in the principal Regulations;

(c) "Part A activity" has the same definition as in the principal Regulations and does not include small waste incineration plants.

Interpretation

3. In these Regulations, "the principal Regulations" means the Environmental Permitting (England and Wales) Regulations 2010(**4**).

PART 2

Amendments of the principal Regulations

Regulation 2 (interpretation: general)

4.—(1) Regulation 2(1) of the principal Regulations is amended in accordance with paragraphs (2) to (14).

(2) Omit the definition of "directly associated activity".

(3) In the definition of "emission"—

(a) for paragraph (c) substitute—

(**4**) S.I. 2010/675 as amended by S.I. 2010/2933, S.I. 2011/988, 2043 and 881 in England and S.I. 2011/2377 in Wales and S.I. 2012/630.

"(c) in relation to a solvent emission activity, the direct or indirect release of substances from individual or diffuse sources in the regulated facility into the air;";

(b) omit "and" immediately preceding paragraph (g) and at the end add—

",

(h) in relation to a small waste incineration plant, the direct or indirect release of substances from individual or diffuse sources in the regulated facility to air or water;".

(4) In the definition of "excluded waste operation"(**5**) omit "Part A mobile plant or".

(5) After the definition of "exemption registration authority", insert—

""existing installation" means an installation carrying on a Part A activity—

(i) which is in operation on or before 7th January 2013, or

(ii) in respect of which a duly made application for an environmental permit is submitted before 7th January 2013 and which commences operation on or before 7th January 2014,

provided that an environmental permit has been granted in respect of such operation;".

(6) In the definition of "hazardous waste" for "except in Section 5.1 of Part 2 of Schedule 1" substitute "subject to paragraph (6)".

(7) In the definition of "mobile plant" omit paragraph (a).

(8) In the definition of "non-hazardous waste" for "except in Section 5.1 of Part 2 of Schedule 1" substitute "subject to paragraph (6)".

(9) For the definition of "Part A mobile plant", "Part A(1) mobile plant", "Part A(2) mobile plant" and "Part B mobile plant" substitute—

""Part B mobile plant" has the meaning given in paragraph 1 of Part 1 of Schedule 1;".

(10) Omit the definitions "SED activity" and "SED installation".

(11) After the definition of "sewer" insert—

""small waste incineration plant" means a waste incineration plant or waste co-incineration plant with a capacity less than or equal to 10 tonnes per day for hazardous waste or 3 tonnes per hour for non-hazardous waste;

"solvent emission activity" means an activity to which Chapter V of the Industrial Emissions Directive applies;".

(12) For the definition of "waste"(**6**) substitute—

""waste", subject to paragraph (5) where it applies, and except where otherwise defined—

(a) in relation to Chapter 5 of Part 2 of Schedule 1, Schedule 13 or 13A, Schedule 14, Schedule 15 or 15A, or Schedule 17 or 17A, means anything that—

(i) is waste within the meaning of Article 3(1) of the Waste Framework Directive; and

(ii) is not excluded from the scope of that Directive by Article 2(1)(d) of that Directive;

(b) in any other case means anything that—

(i) is waste within the meaning of Article 3(1) of the Waste Framework Directive; and

(ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;".

(**5**) As amended by S.I. 2011/811.
(**6**) As amended by S.I. 2011/988.

(13) After the definition of "waste battery or accumulator" insert—

""waste co-incineration plant" means a stationary or mobile technical unit whose main purpose is the generation of energy or production of material products and which uses waste as a regular or additional fuel or in which waste is thermally treated for the purpose of disposal through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

"waste incineration plant" means a stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;".

(14) In the definition of "waste mobile plant", in paragraph (c) omit ", Part A mobile plant".

(15) After paragraph (5) insert—

"(6) In relation to an activity that falls within Chapter 5 of Part 2 of Schedule 1 or Schedule 13 or 13A, hazardous waste means waste which displays any of the characteristics listed in Annex III to the Waste Framework Directive.".

Regulation 3 (interpretation: Directives)

5. In regulation 3 of the principal Regulations—

(a) for the definition of "the IPPC Directive" substitute—

""the Industrial Emissions Directive" means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast)(**7**);";

(b) omit the definition of "the Waste Incineration Directive".

Regulation 5 (interpretation: exempt facilities)

6. In regulation 5(1) of the principal Regulations, in the definition of "exempt waste operation", for paragraph (a) substitute—

"(a) that is not carried on at an installation, and".

Regulation 6 (interpretation: local authority)

7. In regulation 6(2) of the principal Regulations, after "Part B installation" insert ", a small waste incineration plant or a solvent emission activity".

Regulation 7 (interpretation: operate a regulated facility and operator)

8. In regulation 7 of the principal Regulations, in the definition of "operate a regulated facility", for "or groundwater activity" substitute " , groundwater activity, small waste incineration plant or solvent emission activity".

Regulation 8 (interpretation: regulated facility and class of regulated facility)

9.—(1) At the end of regulation 8(1) of the principal Regulations, add—

",

(**7**) OJ No L 334, 17.12.2010, p 17 as amended by corrigendum OJ L 158, 19.6.2012, p 25.

(h) a small waste incineration plant;

(i) a solvent emission activity".

(2) At the end of regulation 8(4) of the principal Regulations, add—

";

(e) small waste incineration plant;

(f) solvent emission activity".

Regulation 12 (requirement for an environmental permit)

10. In regulation 12 of the principal Regulations, after paragraph (5)(**8**) insert—

"(6) Paragraph (1)(a) does not apply until 15th July 2015 in relation to the Part A activities to which paragraph (7) applies, provided that—

(a) the installation at which the activity is carried on is in operation before 7th January 2013, and

(b) the activity is not a Part A activity before that date.

(7) The Part A activities to which this paragraph applies are those falling within—

(a) paragraph (d) of Section 1.2 (in relation to the gasification or liquefaction of fuels other than coal);

(b) Chapter 4 (in relation to the biological processing of chemicals);

(c) Section 5.3 (in relation to the recovery of hazardous waste in an installation with a capacity over 10 tonnes per day by biological or physico-chemical treatment, blending, mixing or repackaging, or surface impoundment);

(d) paragraph (a) of Section 5.4 (in relation to the disposal of non-hazardous waste by biological or physico-chemical treatment, pre-treatment for incineration or co-incineration, treatment of slags and ashes or treatment in shredders of metal waste);

(e) paragraph (b) of Section 5.4 (in relation to the recovery or a mix of recovery and disposal of non-hazardous waste by biological treatment, pre-treatment for incineration or co-incineration, treatment of slags and ashes or treatment in shredders of metal waste);

(f) Section 5.6 (temporary or underground storage of hazardous waste);

(g) Section 5.7 (independently operated treatment of waste water);

(h) Section 6.6 (preservation of wood and wood based products with chemicals);

(i) paragraph (d) of Section 6.8 (treatment and processing of animal and vegetable raw materials for food and feed).".

Regulation 17 (single site permits)

11. In regulation 17(2)(b) of the principal Regulations, omit "(other than a standard facility to which the IPPC Directive applies)".

Regulation 18 (consolidation of an environmental permit)

12. In regulation 18(1)(b) of the principal Regulations, omit ", not being a standard facility to which the IPPC Directive applies".

(**8**) Substituted by S.I. 2011/2043.