

Environmental Permitting Regulations February 2008

On 6 April 2008, the new Environmental Permitting (England and Wales) Regulations 2007 will come into force. The 2007 Regulations will repeal and replace the existing Pollution Prevention and Control (PPC) and Waste Management Licensing regimes and will introduce, for these regimes, one common permitting and compliance system. The 2007 Regulations make changes of form rather than substance and, as a result, the standards imposed, who is regulated or who the regulator is, will remain the same.

The 2007 Regulations form part of the Government's Better Regulation Initiative, which seeks to ensure that environmental legislation is proportionate, brings about the required level of protection of the environment and, whilst doing these things, does not impose an unnecessary administrative burden on industry. The 2007 Regulations fit in with DEFRA's (the Department for the Environment Food and Rural Affairs) commitment to reduce the administrative burden of its regulations by 25 per cent.

1 What changes will there be?

- 1.1 On 6 April 2008, all existing PPC permits and waste management licences will become "environmental permits" and will be subject to the 2007 Regulations. Generally speaking, any undetermined application for or relating to a PPC permit or a waste management licence at the time the 2007 Regulations come into force, will be dealt with under the old legislation. Those permits and licences will become environmental permits once those applications have been determined. Conversion to environmental permits will be automatic and there is no need to reapply.
- 1.2 Under the 2007 Regulations, an operator will be able to apply for a single site-based permit covering more than one activity. This replaces the current system, under which, in certain situations, an operator would have to apply for a PPC permit and a waste management licence using separate forms.¹
- 1.3 The 2007 Regulations enable operators to apply for a standard rules permit where that operator is carrying out a specified low to medium risk activity. The regulator will

¹ It is not clear how the 2007 Regulations will operate in practice where an operator is carrying out both an activity regulated by the Environment Agency and an activity regulated by a local authority. Under the 2007 Regulations, this would require two separate applications. However, the 2007 Regulations do allow for the functions of one regulator to be dealt with by another regulator pursuant to a direction by the Secretary of State.

grant a standard permit if the operator can comply with the standard rules. The application fee for a standard rules permit will be less than that for a bespoke permit and the determination period will be shorter.

2 Advantages for industry

- 2.1 Applications to the Environment Agency will be able to be made on-line.
- 2.2 There will be fewer and simpler rules resulting in greater consistency and less complexity. Application forms and guidance will be clearer. As part of the streamlining process, the Environment Agency has reduced the amount of paperwork by approximately 8,000 pages.
- 2.3 Overall, application costs and determination periods should be reduced.
- 2.4 The new system will separate the application procedure from the substantive environmental protection provisions, allowing new legislation to be “bolted on” as and when it is introduced. Therefore, the Regulations could require compliance with other European Directives.² We expect that DEFRA will seek to bring other environmental consent regimes within the scope of the new Regulations. This would offer the potential for further simplification of the process of obtaining environmental consents.

3 Further information

Further information can be found on [DEFRA's](#) and the [Environment Agency's](#) environmental permitting pages. Or contact the environmental law team here at Mills & Reeve.

Oliver Ennis
Solicitor
for Mills & Reeve LLP
+44(0)1603 693214
oliver.ennis@mills-reeve.com

The contents of this document are copyright © Mills & Reeve LLP. All rights reserved. This document contains general advice and comments only and therefore specific legal advice should be taken before reliance is placed upon it in any particular circumstances. Where hyperlinks are provided to third party websites, Mills & Reeve LLP is not responsible for the content of such sites.

Mills & Reeve LLP is a limited liability partnership regulated by the Solicitors Regulation Authority and registered in England and Wales with registered number OC326165. Its registered office is at Fountain House, 130 Fenchurch Street, London, EC3M 5DJ, which is the London office of Mills & Reeve LLP. A list of members may be inspected at any of the LLP's offices. The term "partner" is used to refer to a member of Mills & Reeve LLP.

² One advantage of this approach is that it reduces the possibility of "gold plating". This is where member states go further than what is required by a European Directive and impose higher environmental protection standards. The UK government has been accused of gold plating in relation to a number of Directives.