



Department  
for Environment  
Food & Rural Affairs



Llywodraeth Cymru  
Welsh Government

# Exemptions Reform to the Environmental Permitting (England and Wales) Regulations 2016

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We are the Department for Environment, Food and Rural Affairs. We are responsible for improving and protecting the environment, growing the green economy, sustaining thriving rural communities and supporting our world-class food, farming and fishing industries.

We work closely with our 33 agencies and arm's length bodies on our ambition to make our air purer, our water cleaner, our land greener and our food more sustainable. Our mission is to restore and enhance the environment for the next generation, and to leave the environment in a better state than we found it.



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# 1. About the consultation

## Executive summary

This consultation seeks views on changes which the UK government is proposing to make to [the Environmental Permitting \(England and Wales\) Regulations 2016](#).

These proposals relate to England and Wales only, and only relate to flood risk activities, waste operations, water discharge activities, and groundwater activities. In England only, they also relate to the forthcoming waste controlling and transporting activities which could be introduced to the EPRs as part of any reforms to the waste carrier, broker and dealer registration system in England. They include stringent safeguards to prevent environmental harm and will complement separate initiatives by regulators to increase scrutiny, oversight and ultimately the performance of permitted sectors.

This consultation forms part of the UK government's regulating for growth programme. We are committed to improving regulation to ensure we are protecting the environment whilst supporting economic growth by reducing the burden of regulation. The changes we are proposing would make the permitting regime more agile in managing environmental risk and provide greater business certainty and transparency.

The environmental permitting regime has evolved over time and continues to change as part of the wider regulatory landscape. Our proposals seek to further streamline the arrangements around the types of controls that apply to different types of environmental risk. Our aim is to simplify and speed up the process for the lead regulators (the Environment Agency in England and Natural Resources Wales in Wales) to create, amend and remove types of exempt facilities and activities which are not required to hold an environmental permit. Our proposals include options to safeguard the regulators' transparency and accountability when making decisions on how the rules for exempt facilities should apply.

This document seeks views on the design and scope of our proposals and the safeguards on the use of exemptions.

We are seeking views from the businesses and sectors in scope of these reforms as well as wider organisations and individuals across civil society, local government and academia.

## Introduction

The environmental permitting regime, set out in [the Environmental Permitting \(England and Wales\) Regulations 2016](#) (the regulations), requires regulators in England and Wales to supervise activities which could harm the environment. The regime aims to:

- Protect the environment so that statutory and government policy environmental targets and outcomes are achieved; and
- Operate effectively and efficiently, in a way that provides increased clarity and minimises the administrative burden on both regulators and operators.

Environmental permitting plays an important role in protecting the environment and human health from a wide variety of risks, such as from flooding, water and air pollution, and contamination of the landscape from waste. It applies to tens of thousands of operators, ranging from individuals at a domestic scale up to large industrial sites.

A post implementation review of the regulations, published in 2023, found that the regulations appeared to be functioning effectively, and that the hierarchy of levels of control that underlies the framework has delivered material benefits. The review also identified potential improvements, such as making the framework more responsive to changes on the ground and the needs of operators.

We are proposing changes to the regulations to achieve these improvements by making the process for creating exemptions and amending their conditions more flexible. We would make these changes by laying a statutory instrument before Parliament.

## Purpose of the consultation

We want to ensure that our proposal will help to kick-start economic growth and deliver the best outcomes for consumers, businesses and the environment. We are seeking views from regulated businesses and persons who may be impacted by changes to the regulations, at any scale – from domestic to large sites. We are also seeking the views of other organisations, groups, and individuals who have an interest in environmental regulation and/or the permitting framework.

We welcome contributions from respondents which can strengthen our analysis of the potential impact of these proposals. In particular, we are keen to hear views from stakeholders with an interest in the classes of activities and facilities that will be affected by our proposals (flood risk activities, waste operations, water discharge activities, groundwater activities, and – in England only – waste controlling and transport activities). This includes some very small activities, such as household sewage discharge and minor construction works on watercourses.

Other classes of facilities, such as industrial facilities and radioactive substance activities, will not be affected by these proposals. Stakeholders with interests in these classes, as well as any other respondents, are still welcome to respond to this consultation.

This consultation is being undertaken jointly by the UK government and the Welsh Government.

# Glossary

**Environmental Permitting Regulations or ‘the regulations’:** [The Environmental Permitting \(England and Wales\) Regulations 2016](#) (S.I. 2016/1154)

**Facilities:** the installations, plants, operations, generators, and activities in scope for the provisions of the Environmental Permitting Regulations. These include:

- **Regulated facility:** A facility that requires a permit. This includes some types of simple activities such as those involving flood risk.
- **Exempt facility:** An exempt waste operation, water discharge activity, groundwater activity or flood risk activity. These facilities are set out in regulation 5 of the current regulations and are in scope for the provisions of the Environmental Permitting Regulations, but do not require a permit. Following any reform of the waste carrier, broker and dealer registration system in England, this could also include exempt waste controlling and transporting activities. This definition does not include any other type of facility which is ‘exempt’ under other parts of the regulations, such as exempt radioactive substance activities.

**Facility class:** Under the existing regulation 8, regulated facilities are grouped into the following 12 classes:

- (a) an installation;
- (b) mobile plant;
- (c) a waste operation;
- (d) a mining waste operation;
- (e) a radioactive substances activity;
- (f) a water discharge activity;
- (g) a groundwater activity;
- (h) a small waste incineration plant;
- (i) a solvent emission activity;
- (j) a flood risk activity.
- (k) a medium combustion plant;
- (l) a specified generator

**Lead regulators:** the Environment Agency, in relation to England, and Natural Resources Wales (NRW), in relation to Wales.

**Operator:** The person who has control over the operation of a regulated facility or any exempt facility, activity, or operation.

## Responding to the consultation

Please respond to this consultation in one of the following ways:

Online using the Citizen Space consultation hub at Defra  
<https://consult.defra.gov.uk/>

For ease of analysis, responses via the Citizen Space platform would be preferred, but alternative options are provided below if required:

By email to: [EnvRegs@defra.gov.uk](mailto:EnvRegs@defra.gov.uk)

In writing to:

Environmental Regulations Team, Defra  
Seacole Building  
2 Marsham Street  
London  
SW1P 4DF

Please note, any responses sent by post must have **arrived** at the above address by the closing date of the consultation (03/06/2025) to be counted. Any responses received after this date will not be analysed. To ensure your response is included in the analysis, please consider responding online via Citizen Space.

Defra is managing the consultation process on behalf of government.

The Welsh Government will have access to the consultation responses provided via the Citizen Space consultation hub.

## Consultation period

This consultation will run for 8 weeks from the 8<sup>th</sup> of April 2025 and close on the 3<sup>rd</sup> of June 2025.

## After the consultation

After the consultation, a summary of the responses to this consultation will be published and placed on the government website at [www.gov.uk/defra](http://www.gov.uk/defra). Responses to this consultation will be reviewed and considered in the future policy development of the regulations.

Information provided in response to this consultation document, including personal information may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes e.g., Freedom of Information Act 2000 (FOIA), Environmental Information Regulations 2004 (EIR) and the Data Protection Act 2018.



# Compliance with the consultation principles

This consultation is being conducted in line with the Consultation Principles set out in the Better Regulation Executive guidance which can be found at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>.

If you have any comments or complaints about the consultation process, please address them to:

By e-mail: [consultation.coordinator@defra.gov.uk](mailto:consultation.coordinator@defra.gov.uk)

Or in writing to:

Environmental Regulations Team, Defra  
Seacole Building  
2 Marsham Street  
London  
SW1P 4DF

## 2. About you

A wide range of businesses, organisations and individuals are involved with or take an interest in permitting. The questions below are intended to reflect this diversity and put your responses in perspective with those of other respondents.

### Confidentiality and data protection information

A summary of responses to this consultation will be published on the government website at: [www.gov.uk/defra](http://www.gov.uk/defra). An annex to the consultation summary will list all organisations that responded but will not include personal names, addresses or other contact details.

Defra may publish the content of your response to this consultation to make it available to the public without your personal name and private contact details (for example, home address, email address, etc).

If you click on 'Yes' in response to the question asking if you would like anything in your response to be kept confidential, you are asked to state clearly what information you would like to be kept as confidential and explain your reasons for confidentiality. The reason for this is that information in responses to this consultation may be subject to release to the public or other parties in accordance with the access to information law (these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances. In view of this, your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance these obligations for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response, but we cannot guarantee that confidentiality can be maintained in all circumstances.

If you click on 'No' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of your response to the public, but we will not make your personal name and private contact details publicly available.

There may be occasions when Defra will share the information you provide in response to the consultation, including any personal data with external analysts. This is for the purposes of consultation response analysis and provision of a report of the summary of responses only.

Defra is the data controller in respect of any personal data that you provide, and Defra's Personal Information Charter <https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs/about/personal-information-charter> gives details of your rights in respect of the handling of personal data.

Please find our latest privacy notice uploaded as a related document alongside our consultation document.

## Questions

### Q1. Would you like your response to be confidential?

Yes / No

If you answered 'Yes', please provide your reason.

### Q2. Your name:

### Q3. Your email address:

This is optional, but if you enter your email address you will be able to return to edit your consultation response in Citizen Space at any time until you submit it. You will also receive an acknowledgement email when you submit a completed response.

### Q4. Which of the options below best describes you?

Please tick only one option. If multiple categories apply to you, please choose the one which **best describes you** and which you are representing in your response. (Required)

- Academic or research
- Industry representative organisation/trade body
- Charity or social enterprise
- Community group
- Consultancy
- Individual
- Local government
- Non-governmental organisation
- Farmer
- Waste operator
- Utility company/provider
- Land owner/management
- Other public body
- Other business (please provide details)
- Any other description (please provide details)

### Q5. If you are responding on behalf of a business/organisation, what is its name?

### Q6. If responding on behalf of a business/organisation, what is the average number of staff members

- 1
- 2-9

10-49  
50-499  
500+

#### **Q7. Where are you located?**

If answering on behalf of a business/organisation that is nationally spread, please select most appropriate location, such as that of the head office and/or main area of activity.

[Guidance on regional classification](#)

East Midlands  
East of England  
London  
North-East England  
North-West England  
South-East England (excluding London)  
South-West England  
West Midlands  
Yorkshire and Humber  
Wales  
None of the above/main area of activity is outside England and Wales

## **3. The Regulations**

The regulations provide for ongoing supervision by regulators of a range of activities, installations, operations, plant, and processes which could harm the environment, which are all defined as types of regulated 'facilities'. Regulated facilities may be undertaken by businesses or individuals and sometimes include small-scale activities such as household sewage discharge and minor construction works on watercourses.

Regulated facilities are grouped into twelve classes to which environmental controls apply. These classes are:

- Installations
- Mobile plant
- Waste operations
- Mining waste operations
- Radioactive substances activities
- Water discharge activities
- Groundwater activities
- Small waste incineration plants
- Solvent emission activities
- Flood risk activities
- Medium combustion plants

- Specified generators

The regulations put in place a streamlined framework of rules and procedures for applying for, receiving, varying, transferring, and surrendering permits, along with compliance, enforcement, and appeals arrangements, as well as standardised guidance.

This single consistent framework reduces the need for separate regulations for different areas of environmental risk. This helps ensure the overall regulatory landscape is as streamlined and integrated as possible, as well as quicker and cheaper for operators to understand and comply with.

## A hierarchy of proportionate levels of control

Under the regime, regulatory effort should be proportionate to the level of environmental risk, impacts, and operator performance. Regulators concentrate on higher risk activities to achieve the desired environmental outcomes, and to make the most effective use of resources. To allow this, there is a hierarchy of permitting options linked to the risk profile of different types of activities.

The options under this hierarchy are:

- Exempt facilities (that do not require a permit)
  - Exempt facilities that do not require registration
  - Exempt facilities that require registration
- Regulated facilities (that require a permit)
  - Standard facilities (that can operate under a standard rules permit)
  - All other facilities (that must operate under a bespoke permit)

**Exempt facilities:** A lower level of control is available to operators of certain facilities that are defined by [regulation 5](#) of the regulations as ‘exempt’. This currently includes over 110 types of facilities which are considered to pose a lower risk. These exemptions exist in only four classes of facility: flood risk activities, waste operations, water discharge activities, and groundwater activities. Exemptions could also be introduced to waste controllers and transporters as part of any reforms to the waste carrier, broker and dealer regime in England.

This level of control does not apply to other classes of facility, where the concept of ‘exempt’ facility does not exist in the same way. For example, it does not apply to ‘industrial’ facilities (installations, solvent emission activities, small waste incineration plant, medium combustion plant and specified generators), or to radioactive substance activities, even where some facilities are ‘exempt’ from other requirements.

Operators of exempt activities are not required to hold a permit, but there are still specified conditions (such as general rules) that operators must comply with. At present, legislation defines the types of these facilities and the conditions that apply to them.

Types of facilities that do not require a permit are either:

- **Exempt facilities that do not require registration.** This is the least stringent level in the hierarchy. Operators are expected to comply with any specified conditions, and oversight of these activities is limited and responsive to complaints and incidents.

This level applies to a small number of specific types of facilities: excluded flood risk activities, excluded waste operations, some temporary waste storage operations, and the majority of small sewage discharges in England.

- **Exempt facilities that require registration.** Operators of these facilities must register with regulators, providing their name and address and the location of the activities they are registering. Operators must comply with any specified conditions for each type of facility. Regulators have the option to de-register activities if they become aware that operators have contravened conditions.

This level applies to a variety of types of facilities such as certain exempt flood risk activities, exempt waste operations, and some exempt water discharge and groundwater activities.

**Regulated facilities (requiring a permit):** Operators of these facilities must hold an environmental permit. Permits contain conditions that operators must comply with (such as stipulations of objectives or outcomes, standards to mitigate a particular hazard/risk, and conditions addressing particular legislative requirements).

When an operator applies for a permit, the relevant regulator may either grant it or refuse to grant it, based on its assessment of the environmental risks and operator competence. Regulators can use a range of interventions to secure compliance at exempt facilities, including enforcement. This process results in costs and additional time constraints for operators but is a proportionate response to the higher levels of environmental risk associated with these types of facilities.

Facilities that require a permit are either:

- **Standard facilities (that can operate under a 'Standard rules' permit).** These are available for certain types of facilities, where generic risks are well understood, assessed, and mitigated. The conditions in these permits set consistent requirements for all operators, based on a generic risk assessment for that type of facility. Operators benefit from a simpler and quicker application process, although there is no flexibility for different conditions at different sites.

Lead regulators or the relevant government ministers have powers to issue, amend, or remove standard rules, following a public consultation on each risk assessment and set of rules. This process typically takes around 9 months. These powers are set out in the regulations, and therefore no new legislation is required to make these changes.

Standard rules are published online<sup>1</sup> and are available for many different types of regulated facilities.

- **All other facilities (that must operate under bespoke permits).** If standard rules are not available for a regulated facility, the operator must apply for a bespoke permit. The application must include a site-specific risk assessment, leading to additional time and costs for operators. Public consultation often plays an important role, and conditions are designed to address the specific circumstances of each application (although generic permit conditions are used where possible).

Bespoke permits provide the most precise control for regulator oversight, and they are proportionate for types of facilities with the highest level of risk and where special conditions and compliance checking should apply.

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<sup>1</sup> [Standard rules: environmental permitting - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/standard-rules-for-environmental-permitting) and [Natural Resources Wales / Apply for a standard rules permit for an installation](#)

	Exempt (Not registered)	Exempt (registered)	Standard rules permits	Bespoke permits
<b>Type of conditions</b>	Generic	Generic	Generic, based on generic risk assessment	Bespoke, based on site specific risk assessment
<b>Defined by</b>	Legislation	Legislation	Standard rules published by lead regulators	Legislation (a type of facility automatically requires a permit if no other option applies)
<b>Process for operators</b>	Operate facilities according to conditions set in legislation	Register with regulator.  Operate facilities according to conditions set in legislation.	Obtain and hold a standard rules permit.  Operate facilities according to the conditions in the standard rules permit.	Obtain and hold a bespoke permit (requiring a site-specific risk assessment).  Operate facilities according to the conditions set by regulators.
<b>Regulator role</b>	Responsive and only in exceptional circumstances	Responsive, supported by appropriate periodic monitoring	Active desk-based and site-based monitoring	Active desk-based and site-based monitoring
<b>Appropriate for</b>	Lower risk facility types where registration is not required	Lower risk facility types	Higher risk facility types where the generic risk profile is well understood and similar at all sites	Higher risk facility types where a site-specific approach is necessary

Table 1: Summary of the hierarchy of levels of control in the environmental permitting framework.

Many businesses or activities are not subject to any of these levels of controls. This includes:

**Facilities outside the scope of the regime:** The regulations specify the types of facilities that its provisions apply to, as well as activity level thresholds. Any types of facility not listed, or at a sufficiently small scale, will not have controls applied under the permitting regime.



**Facilities subject to enforcement relaxations by regulators:** Regulators may decide not to enforce some permit requirements in certain temporary, sometimes emergency circumstances, such as when the Covid-19 pandemic led to increased pressures on the waste sector. They may still expect operators to comply with certain conditions, and publish 'regulatory position statements' (in England) and regulatory decisions (in Wales) to explain this. Currently, there are more than 175 active regulatory position statements and 44 active regulatory decisions relating to permitting requirements.

While this approach offers some practical agility and flexibility, particularly for situations where the requirement for a permit is considered disproportionate to the risks posed by an activity, it has disadvantages. It is based on the regulator exercising enforcement discretion; however this does not provide assurance to operators that they are complying with the law, and could lead to complaints from the public. There may not be a clear link to the objectives of the permitting regime. There is also no requirement to consult the public which weakens ministerial oversight and accountability.

## Changing a type of facility's level in the hierarchy

From time to time, environmental risks and receptors, technologies, management techniques, and regulatory capabilities change. Updating regulatory requirements to reflect this, typically via minor technical changes, helps achieve the objectives of the permitting regime more effectively, allowing the approach to the nature of risks to continue to be proportionate.

Any aspect of the regulations may be changed through further amending legislation following consultation.

In some circumstances, powers to make amendments are delegated to regulators, allowing an agile and proportionate approach. At present, the lead regulators have powers to publish and revoke standard rules. No amendments to legislation are required to make these changes. This allows them to rapidly adjust the level of control for facilities that require a permit, by either:

- Publishing standard rules for a type of facility that currently requires a bespoke permit, providing a faster and simpler permit option for operators;
- Revising existing standard rules, so that the conditions relating to the types of facilities they cover remain appropriate;
- Revoking existing standard rules for a type of facility, meaning that all affected operators will then need to follow the bespoke process when applying for a permit.

However, exempt facilities, and the conditions that apply to them, are specified in the regulations, which can only be changed by means of legislative amendment.

In summary, where the regulations define certain types of facility as exempt, regulators' powers to make changes are limited and ineffective.

## Delays in the present system

The existing power to amend the regulations is very broad, but the process of using it<sup>2</sup> is often lengthy and subject to disruption. For example, the following proposals for targeted reforms to address delays in the present permitting system have been subject to delays:

- Proposals to change waste exemptions ([consulted on in 2018](#), work to enact these specific reforms continues);
- Proposals to change certain flood risk exemptions (which were [consulted on in 2018](#));
- Proposals to change certain groundwater activity exemptions in England ([consulted on in 2021](#), and implemented in 2023).

The case for implementing changes like these as soon as possible is clear, given the consequences of not putting the use of exemptions on a more transparent and robust footing. For example, the 2018 proposals to change waste exemptions targeted those exemptions which were found to be routinely abused to hide illegal activity. The delay in making these changes has allowed illegal practices to continue. This is anti-competitive, undermines legitimate businesses, and disincentivises investment as well as damaging the environment.

Addressing such delays would therefore allow a quicker and more flexible response to emerging evidence, benefiting industry while protecting the environment.

## Questions

**Q8. Do you, or the business/organisation you are responding on behalf of, operate any regulated facilities under the Environmental Permitting (England and Wales) Regulations 2016, or waste controlling and transporting activities (which could become regulated under our separate plans as part of any reforms to the waste carrier, broker and dealer registration system in England)? This includes all activities that require a permit, even if they are small in scale, such as household sewage discharge and minor activities on, or near, a main river or flood defence structure.**

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<sup>2</sup> Typically involving a government minister laying a statutory instrument before Parliament

Yes / No / Unsure

**Q9. Do you, or the business/organisation you are responding on behalf of, operate any exempt facilities (i.e. those that do not require a permit while generic conditions still apply) under the Environmental Permitting (England and Wales) Regulations 2016?**

Yes / No / Unsure

**Q10. Do you operate or have an interest in any of the following classes of regulated facilities which are in scope for our proposals?**

Water discharge activities

Groundwater activities

Flood risk activities

Waste operations

Waste controlling and transporting activities

No (main focus is on other classes of facilities)

## 4. Proposed changes to make the hierarchy more flexible

We propose to give lead regulators new powers to define types of regulated facility that are exempt from the need to hold a permit, and to set the conditions that apply to them. This will improve transparency, provide greater business certainty and improve the ability of the permitting regime to protect our environment and human health and achieve its objectives more effectively.

Our proposals would not directly change the exemptions or conditions currently in place for operators.

These powers would only be available for classes that can already include exempt facilities as defined by regulation 5 of the regulations (currently flood risk activities, waste operations, water discharges, and groundwater activities, and, following any changes in England only, waste controlling and transporting activities). They would not affect the arrangements in place for any of the other regimes.

With regards to installations and other facilities in the industrial sector, we are developing proposals for consultation to update the permitting framework to better deliver our priorities for the environment and the UK government's missions on economic growth, clean power and public health. This separate consultation will include consideration of the role that exemptions could play for industrial facilities in delivering these outcomes.

For the classes of facilities in scope, the new powers would allow lead regulators to:

1. Designate types of facility, subject to the safeguards outlined in section 5, as exempt from the need to hold a permit;
2. Specify or modify conditions that operators of each type of exempt facility must comply with. This would allow them to specify whether or not operators of each type of exempt facility must register with regulators and what conditions they must comply with;
3. Remove 'exempt' status from any type of facility, and therefore require operators of those facilities to obtain a permit.

	<b>Exempt (not registered)</b>	<b>Exempt (registered)</b>	<b>Standard rules</b>	<b>Bespoke</b>
<b>Current methods to add types of facility to this level</b>	Legislation	Legislation	Standard rules	Legislation or revocation of standard rules
<b>Current methods to remove types of facility from this level</b>	Legislation	Legislation	Revocation of standard rules	Legislation or standard rules
<b>Current methods to set conditions</b>	Legislation	Legislation	Standard rules	Regulator decision (may follow bespoke public consultation)
<b>Proposed methods to add types of facility to this level</b>	Legislation or lead regulator decision	Legislation or lead regulator decision	Standard rules	Legislation, revocation of standard rules, or lead regulator decision
<b>Proposed methods to remove types of facility from this level</b>	Legislation or lead regulator decision	Legislation or lead regulator decision	Revocation of standard rules	Legislation, standard rules, or lead regulator decision
<b>Proposed methods to set conditions</b>	Legislation or lead regulator decision	Legislation or lead regulator decision	Standard rules	Legislation or regulator decision

Table 2: Summary of the proposals to make the hierarchy of levels of control in the environmental permitting framework more flexible.

These proposals would then allow lead regulators to adjust more quickly the level of regulation for all types of facilities in these classes, whether or not they currently require a permit to operate. This would be in line with existing powers to issue, amend, or revoke standard rules, which currently take around 9 months.

We anticipate that this power would have the following advantages:

- Lead regulators already have oversight of the operation of the environmental permitting regime. They have a good awareness of the practical issues and a track record of making effective interventions to address these. They will therefore be able to use these powers to react in a quicker and more efficient manner than the current system allows, where they identify a need to do so.
- Promoting the agility of the permitting regime and lead regulators to respond proportionately to emerging issues and risks and more effectively achieve the goal of protecting human health and the environment.
- Facilitating innovation and providing appropriate regulatory controls to improve monitoring and encourage new environmental practices and technology.
- Reducing administrative burden on operators and regulators.
- Providing greater business certainty.

## Question

**Q11. Do you agree that lead regulators should be given these new powers?**

Yes / No / Unsure

## Existing classes of facilities the powers will apply to

We propose that the power will only be available in existing classes where there is already precedent for certain types of facility being exempt from the need to hold a permit. These classes are defined in the existing regulation 5 as:

- Flood risk activities;
- Waste operations;
- Water discharge activities; and
- Groundwater activities.

Operators in these areas have, in the past, been consulted during the processes to designate such activities, and have experience in dealing with them.

As detailed above, we are not proposing changes in other any other existing classes of facilities, where there is no precedent for exempt facilities. **Existing facilities outside of these four classes will not be affected by these proposals.**

In the water sector, stronger regulation and tougher enforcement are crucial for holding operators to account to deliver the change the public rightly want to see.

The Water (Special Measures) Act delivers on the UK government's commitment to put water companies under special measures and received Royal Assent in February 2025. The Act provides the most significant increase in enforcement powers to the regulators in a decade, giving them the teeth they need to take tougher action against water companies in the next investment period, which starts in April this year.

In October 2024, the UK and Welsh governments launched an independent commission, led by Sir Jon Cunliffe and supported by expert advisors, to recommend reforms to reset the water sector regulatory system. The commission will publish a report in Q2 2025, with recommendations for actionable solutions to the sector's problems.

The stringent safeguards we are proposing as part of this consultation are designed to ensure that the tight regulation of water companies' activities, such as the use of storm overflows, is not undermined. However, our proposals may allow changes to be made to the arrangements for existing exempt and/or low-risk water discharge activities, following further consultation. For example, currently the General Binding Rules set out the conditions in the regulations that allow the use of a septic tank or sewage treatment plant without an environmental permit. The proposed reforms may allow regulators, subject to further consultation, to better reflect environmental risk and protect important sites such as chalk streams through amendments to the existing General Binding Rules to bolster regulators' oversight and control.

## Additional classes of facilities the powers will apply to

In England only, we propose that the power would also apply to waste controlling and transporting activities if introduced to the regulations as part of reforms to the waste carrier, broker and dealer registration system in England.

## Questions

**Q12. Do you agree that these powers should apply to flood risk activities?**

Yes / No / Unsure

**Q13. Do you agree that these powers should apply to waste operations?**

Yes / No / Unsure

**Q14. Do you agree that these powers should apply to water discharges?**

Yes / No / Unsure

**Q15. Do you agree that these powers should apply to groundwater activities?**

Yes / No / Unsure

**Q16. Do you agree that, in England only, these powers should apply to the waste controlling and transporting activities if introduced to the regulations?**

Yes / No / Unsure

**Q17. Should these powers apply to any other class of facilities?**

Yes / No / Unsure

Please provide a reason for your response:

## Application of the powers

The regulator for each type of facility is specified in the regulations. **We do not propose to make any changes to this.**

The lead regulators – i.e. the Environment Agency (in England) and Natural Resources Wales (in Wales) – regulate permitting, except for a small number of facility types which are regulated by local authorities<sup>3</sup>.

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<sup>3</sup> Subject to any direction issued under regulation 33 of the Regulations, the Environment Agency (in England) and Natural Resources Wales (in Wales) regulate:

- Part A(1) installations;
- waste mobile plant;
- mobile medium combustion plant;
- waste operations, including those carried on at a Part B installation or by Part B mobile plant (unless the waste operation is a Part B activity);
- mining waste operations, including any carried on at a Part B installation;
- radioactive substances activities;
- water discharge activities, including those carried on at a Part B installation;
- groundwater activities, including those carried on at a Part B installation;
- flood risk activities;
- medium combustion plant, including those carried out at a Part A(2) or B installation or which are also small waste incineration plant; and
- specified generators, including those carried out at a Part A(2) or Part B installation or which are small waste incineration plant.

The relevant local authority regulates:

- Part A(2) installations including any waste operations, water discharge activities or groundwater activities carried on as part of the installation or mobile plant (except as set out above);
- Part B installations and Part B mobile plant (except as set out above);



**We propose that the new powers be given to the lead regulators only, i.e. the Environment Agency (in relation to facilities in England) and Natural Resources Wales (in relation to facilities in Wales).** As national regulators they are well placed to undertake the necessary research, development, and consultation around proposed amendments.

This would be in line with the existing power for the Environment Agency and Natural Resources Wales to create standard rules for regulated facilities, which they can use to make and amend standard rules.

**We do not propose extending these powers to local authorities given their limited role in issuing permits for the installations in scope of these reforms.**

Local authorities regularly engage with the lead regulators, and our proposal will not prevent them from co-operating as they do today, including in relation to the use of the new powers.

## Questions

**Q18. Do you agree that these powers should be given to the Environment Agency in relation to facilities in England?**

Yes / No / Unsure

**Q19. Do you agree that these powers should be given to Natural Resources Wales in relation to facilities in Wales?**

Yes / No / Unsure

## 5. Safeguarding

Our proposals aim to increase the flexibility in the hierarchy of levels of control in the permitting regime. We do not want to impede the protection of human health and the environment, or to contradict any of the objectives underlying the regime. We have

- 
- small waste incineration plants (except as set out above); and
  - solvent emission activities.

considered where safeguards - limitations or conditions on the powers - would help to ensure such negative outcomes are prevented.

We are proposing the following safeguards that are intended to be proportionate and in line with arrangements in place for other regulatory regimes.

## Safeguard for objectives

The environmental permitting regime is a framework of rules that apply to various sectors. They have been used to consolidate several different permitting and licensing systems applicable within England and Wales that existed previously. Each system had its own objectives and criteria, and the regulations have retained these.

The objectives and criteria for the existing classes of facilities that we propose these powers apply to are:

- Flood risk activities (as set out in Schedule 25 of the regulations):
  - managing flood risk;
  - managing impacts on land drainage;
  - environmental protection.
- Waste operations (Schedule 9): protection of human health and the environment as described in Article 13 of the Waste Framework Directive, i.e. to ensure that waste management is carried out without endangering human health, without harming the environment and, in particular:
  - without risk to water, air, soil, plants or animals;
  - without causing a nuisance through noise or odours; and
  - without adversely affecting the countryside or places of special interest.
- Water discharge activities (Schedule 21 (5) and (6)): Exempt activities must not cause pollution of inland freshwaters, coastal waters, or relevant territorial waters.
- Groundwater activities (Schedule 22):
  - Prevent the input of any hazardous substance to groundwater; and
  - Limit the input of non-hazardous pollutants to groundwater so as to ensure that such inputs do not cause pollution of groundwater.

We propose to limit these powers so that, for existing classes of regulated facility, they can only be used in accordance with these objectives and criteria.

## Questions

**Q20. Do you agree that regulators making use of these powers should only do so if they do not contravene any of the applicable objectives and criteria?**

Yes / No / Unsure

**Q21. What other objectives should apply?**

Details:

## Safeguard for environmental risk

Risk assessments are already an important tool in the operation of environmental permitting, as environmental permits can only be issued following an assessment of the environmental risk for the facilities they cover. Standard rules allow for a single generic environmental risk assessment for each type of facility they apply to, while a bespoke permit application must include a site-specific risk assessment. Permit conditions are designed to ensure identified risks are appropriately and comprehensively controlled.

The specified conditions that apply to exempt facilities are typically more generic than the conditions contained on a standard permit. This is proportionate where a simpler approach is sufficient to effectively manage risks. This will typically apply only where the level of risk has been assessed as low.

[Read guidance on risk assessments for your environmental permit.](#)

We propose that the power may only be used to exempt a type of facility from the need to hold a permit if it has been assessed to carry a lower level of risk to the environment and human health.

We do not propose any risk-based limitation on use of the power to remove exempt status from any type of facility.

## Questions

**Q22. Do you agree that these powers should only be available to exempt a type of facility from the need to hold a permit to operate if that activity is assessed as low risk?**

Yes / No / Unsure

**Q23. How should the level of risk be defined?**

Details:

## Safeguard requiring consultation

Engagement with key stakeholders, including operators of regulated facilities, helps ensure regulation can be fully considered. Facilitating scrutiny ahead of significant changes in regulatory approach improves understanding of impacts and allows for adjustments to be made, where deemed appropriate.

Engagement can take various forms, such as a public consultation. At present, consultations are already an important part of the permitting process. In most classes of facilities, regulators undertake consultation before agreeing any standard rules, and before granting any bespoke permits. We consider that the existing procedures to support this have been shown to perform effectively.

We propose to require regulators to undertake public consultation prior to using these powers, except when used to make minor administrative changes (such as correcting a typographical error that has regulatory implications or revising waste classification codes). This approach will mirror existing requirements relating to standard rules made by regulators, and should deliver transparency and maximise the opportunity for informed stakeholder engagement, which should provide for a more efficient process and improved outcomes.

## Question

**Q24. Do you agree that regulators should only be able to use these powers after they have undertaken a public consultation and published a response to it?**

Yes / No / Unsure

Details:

## Safeguard allowing Government ministers to prevent the powers being used

Reassurance of accountability and oversight is an important aspect of the regulations.

Regulation 62, which will be unaffected by our proposals, allows the relevant Secretary of State or Welsh Ministers to give directions to regulators with respect to carrying out their permitting functions. This allows them to direct regulators to either exercise or *not* exercise their powers in certain circumstances or in a certain manner.

## Safeguard on multiple facilities on a single site

It is possible for multiple facilities to be located at a single site. The permitting regime accommodates this and allows a single permit to be granted, where both the operator and regulator is the same for each of the facilities.

At such sites, each of the facilities may have complex interactions, leading to an increased total level of risk. Single site permit conditions can be designed to effectively control this total risk.

However, conditions specified for exempt types of facilities do not allow for adaptations that would allow them to address aggregate risks at sites with multiple regulated facilities. A larger number of exempt facilities at one site may lead to an increased level of total risk.

We propose that, where this power is used to make a type of facility exempt from the need to hold a permit, a limit can be applied where necessary to the number or total scale of those facilities that can be operated on any one site without a permit.

This safeguard would be in addition to plans we announced in the supplementary government response to our consultation on reducing crime and poor performance [in the waste sector](#). These plans would require operators of more than one exempt activity at a site to make sure that the total amount of each waste type at that site does not exceed the lowest limit in the exemptions registered.

## Questions

**Q25. When this power is used to exempt facilities from permitting requirements, should a limit apply on the number or total scale of facilities on a single site without a permit?**

Yes / No / Unsure

**Q26. How should such a limit be set for flood risk activities?**

Details:

**Q27. How should such a limit be set for waste operations (beyond the existing plans that the total amount of each waste type at a site should not exceed the lowest limit in the exemptions registered)?**

Details:

**Q28. How should such a limit be set for water discharge activities?**

Details:

**Q29. How should such a limit be set for groundwater activities?**

Details:

**Q30. How should such a limit be set for waste controlling and transporting activities?**

Details:

**Q31. Do you have any further comments on how such limits would be set?**

Details:

## Additional safeguards

### Question

**Q32. Should any other safeguards apply to the use of these powers? If answering yes, please provide details if possible.**

Yes / No / Unsure

Details:

## 6. Costs and benefits

We have assessed the potential impacts of the proposals against the baseline option of retaining the status quo, and estimated of the costs and benefits to businesses, government, regulators and the environment.

In our assessment, the main benefits include increased regulatory flexibility and responsiveness, resulting from no longer being required to pass secondary legislation to add, remove or amend conditions around exemptions. This could incur wider environmental benefits, although the nature of these is dependent on the sector and for which exemptions the power is used for. Operators are anticipated to face more certainty, due to a reduced reliance from regulators on short term regulatory positions. The regulatory safeguards outlined in section 5 are anticipated to increase public scrutiny through the requirement to hold a consultation, and to improve the level of proportionality to risk due to the restriction on use of the power to low risk activities only.

The main assessed costs of the proposal related to familiarisation costs to operators and to regulators, resulting from being required to understand the change in the regulations and disseminate this through their organisation. The proposal also incurs minor administrative costs to regulators to produce guidance related to the new process to add, remove or amend exemptions.

When the power is used and an exemption is added, removed or amended, regulators will undertake a public consultation to ensure transparency and stakeholder engagement. To support the consultation, we expect regulators to undertake a proportionate assessment of the costs and benefits upon businesses and the environment. This will ensure that all potential impacts are fully considered, in line with the principles set out in the [Green Book appraisal guidance](#).

## Questions

**Q33. Do you think these powers will impose any additional costs or burdens on yourself or your organisation? Please provide details if possible.**

Yes / No / Unsure

Details:

**Q34. Do you think these powers could result in harm to the environment or human health? Please provide details if possible.**

Yes / No / Unsure

Details:

**Q35. Do you think these powers will result in any benefits to yourself or your organisation? Please provide details if possible.**

Yes / No / Unsure

Details:

**Q36. Do you think these powers could result in additional benefits to the environment or human health? Please provide details if possible.**

Yes / No / Unsure

Details:

**Q37. Do you have any evidence that would support the calculation of costs or benefits resulting from the proposal? Please provide details if possible.**

Yes / No / Unsure

Details:

**Q38. Do you have any further comments on our proposals?**

Details:

## 7. Consultee Feedback on the Online Survey

Thank you for taking your time to participate in this online survey. It would be appreciated, if you can provide us with an insight into how you view the tool and the area(s) you feel is in need of improvement, by completing our feedback questionnaire.

**Q39. Overall, how satisfied are you with our online consultation tool? Please give us any comments you have on the tool, including suggestions on how we could improve it.**

Very satisfied

Satisfied

Neither satisfied nor dissatisfied

Dis-satisfied

Very dissatisfied

Don't know

Details of suggestions: