



Department
for Environment
Food & Rural Affairs



Llywodraeth Cymru
Welsh Government

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Date: 11 April 2018

Dear Consultee

Consultation on amendments to exemptions and exclusions in relation to flood risk activities in the Environmental Permitting (England and Wales) Regulations 2016.

Defra and Welsh Government are inviting you to respond to a consultation on proposals to amend some exemptions and exclusions in relation to flood risk activities.

Flood defence consents were brought into the Environmental Permitting framework and the existing penalty framework in April 2016. The Environmental Permitting Regulations (EPRs) have since been consolidated and a new set of Regulations (the Environmental Permitting (England and Wales) Regulations 2016) came into force on 1 January 2017.

The Environment Agency and Natural Resources Wales have undertaken an initial review of the exemptions and exclusions and concluded that some small adjustments may be made to a few of the exemptions and exclusions as follows to allow more flexibility:-

- **Schedule 3, Chapter 5, Part 4 Exemption 9 and flood risk activity (b) – maintenance of structures within the channel of a main river.**
We are proposing to remove this exemption entirely as it would appear to be redundant.
- **Schedule 3, Chapter 5, Part 4 Exemption 16 Rafts for surveys.**
We are proposing to remove the 12 month timing constraint and include further conditions.
- **Schedule 3, Chapter 5, Part 4 Exemption 20 - Construction of fish passage notches on an existing impoundment.**
We are proposing to remove the words “fish passage” so that other types of notches can be covered.
- **Schedule 25, Part 2, Section 2, paragraph 5 – Ladders and scaffold towers.**
We are proposing to add the words “other types of apparatus” to the exclusion.

We will also be making an amendment to the following exclusion:-

- **Schedule 25, Part 2, Section 2, paragraph 9 - Fencing.**

We are proposing to extend this exclusion so fencing is not located on “flood defences” as well as beds and banks of the main river.

Please note that we will also be updating the salmonid map under **Schedule 3, Chapter 5, Part 4, clause 5 (a) – a copy of the map is also available for information but we will not be seeking views on the updated map reference.**

Details are included in Chapter 2 of the consultation document.

Responses

This consultation will run for 10 weeks from 11 April 2018 to 20 June 2018. We welcome your views and comments on the proposals. The following documents may be found on Citizen Space (Citizen Space is an on-line consultation tool) at:

<https://consult.defra.gov.uk/flooding/environmental-permitting-regulations>

The consultation questions are listed in the online consultation survey, and in the consultation document (Annex A). To submit your consultation response please complete the consultation questionnaire provided through Citizen Space (link above) by 11.45pm on 20 June 2018.

Alternatively, you can return your responses:

By email to: floodreports@defra.gsi.gov.uk

By post to:

Kilie Mpopo
Flood Risk Management
Department for Environment, Food and Rural Affairs
3rd Floor
Seacole Block
2 Marsham Street
London SW1P 4DF

Or

Floodcoastalrisk@gov.wales

Flood and Coastal Erosion Risk Management
3rd Floor
Cathays Park
Cardiff
CF10 3NQ

Responses should be received by 11.45pm 20 June 2018

All of these proposals are of particular interest to those individuals, businesses and organisations that carry out works on or near to main rivers, such as landowners/farmers; internal drainage boards; Canal and Rivers Trust; local authorities; riparian owners/householders; and environmental groups. We therefore encourage you to share

this consultation widely with other individuals who may be interested in these proposals. The responses to these questions will determine the changes we make to the exemptions and exclusions.

Summary of responses and confidentiality

Any responses you send will be seen in full by Defra staff who deal with matters relating to this consultation. Responses may also be seen by other Defra staff in order to help them plan future consultations. A summary of responses to this consultation will be published on the Government website at: www.gov.uk/defra. The summary will include a list of organisations that responded **but not** personal names, addresses or other contact details.

Information provided in response to this consultation, including personal information, may be made available to the public on request, in accordance with the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs). Defra may also publish the responses to the FOIA/EIR requests on www.gov.uk/defra.

If you want information, including personal information such as your name, that you provide to be treated as confidential, please explain clearly in writing when you provide your response to the consultation why you need to keep these details confidential. If we receive a request for the information under the FOIA or the EIRs we will take full account of your explanation, but we cannot guarantee that confidentiality can be maintained in all circumstances. However, Defra will not permit any unwarranted breach of confidentiality nor will we act in contravention of our obligations under the Data Protection Act 1998 (DPA). An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as a confidentiality request.

Defra is the data controller in respect of any personal data that you provide, and Defra's Personal Information Charter, which gives details of your rights in respect of the handling of your personal data, can be found at:

<https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs/about/personal-information-charter> .

Consultation Principles

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

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

Comments and complaints

If you have any comments or complaints about the consultation process, please address them to: Consultation Co-ordinator, 8A 8th Floor, Nobel House, 17 Smith Square, London, SW1P 3JR. Or email: consultation.coordinator@defra.gsi.gov.uk . Thank you for your help in this matter. If you have any queries, please contact us as above.

Yours faithfully



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