

# Technical Annex: Operator

## What is an operator?

You must fulfil certain criteria if you want to apply for and hold an environmental permit. For all environmental permits you must be the legal operator of the regulated facility. An operator is a person who has sufficient control, responsibility and accountability over the activities authorised by a permit. The permit holder must also be the operator. This is a core element of the EPR and there are no exceptions allowed. As the operator, you are legally responsible for the permitted activity at all times.

Each permitting regime and activity type has different requirements based on site specific technical complexities, however in general terms, sufficient control means:

- having day-to-day control of the permitted facility or activity, including the manner and rate of operation;
- making sure permit conditions are complied with;
- ensuring staff on site are competent to fulfil their specific roles and/or duties;
- making business, investment and financial decisions that affect the facility's performance or how the activity is carried out; and
- making sure activities are controlled in an emergency.

## Who can be an operator?

Operators can be individuals, public or private limited companies, public bodies or limited liability partnerships. If the company is registered overseas, the operator must have a UK address.

Joint operators can apply for and be named on a permit, joint control must be demonstrated and both operators would be legally responsible for the permitted activity at all times.

If contractors mainly work at your site, you can still be classed as the legal operator provided you have sufficient control of the activities carried out by the contractors e.g. a remote holding company would be unlikely to be considered as having sufficient control.

## What if I am no longer the operator?

Circumstances can change and a permit holder may no longer be able to meet the definition of operator. The permit would need to be transferred to another person who can meet the definition. Failing to do so might result in the Environment Agency taking enforcement action to revoke (cancel) the permit meaning the permit would no longer exist and all activities would have to stop. For activities to resume a new permit would need to be applied for as if it were a brand new application.

## Technical and Financial Competency

Technical and financial competency will not be a requirement in order to be an operator of a water abstraction or water impounding activity. However, if other regulated facilities are

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permitted on the same permit then these tests will need to be met for those particular activities. It will always be important for you to demonstrate that you can comply with the conditions of your permit and you know how to:

- operate the necessary equipment;
- comply with the law and government policies; and
- minimise risk and the impact of your activity on people and the environment.

In most cases this can be demonstrated through the [management system](#).

## Existing applications and transitional permits

### Applications in determination

Any abstraction or impounding permit application determined after implementation of the EPR will be issued as an EPR permit. The applicant and eventual permit holder, will need to meet the definition of operator.

The Environment Agency will communicate with any applicants likely to be affected to make this clear and to prevent delays to determinations.

### What happens if I want to make a change to my transitional permit?

If a permit holder wants to make a change to a transitional permit (such as a variation, transfer or part transfer) after implementation of the EPR, those changes would be made under the EPR and the applicant must be the operator.

### Canal & River Trust (CRT)

CRT will be excluded from requirements to meet operator definitions due to special provisions to be retained from section 66 of the Water Resources Act 1991. Only CRT can apply for permits on the inland waters they own or manage.

## Examples of sufficient control for abstraction and impounding activities

For abstraction and impounding activities sufficient control might be:

- having responsibility for the management system;
- ensuring the permit is complied with;
- understanding how to operate the necessary equipment;
- ensuring there is a programme for maintenance of pumps and calibration of meters so that accurate records are kept;
- ensuring accurate returns have been submitted; and
- minimising risk and the impact of the activity on people and the environment.

There may be circumstances where the operator does not undertake the abstraction or impounding activity themselves. This could include:

- a landowner who leases out farmland to a tenant who undertakes the permitted abstraction activities with a mobile pump;
- a charity or community organisation managing a local wildlife site on behalf of a council;

- a contractor carrying out capital works on behalf of a water company; and
- a construction contractor installing a new impounding weir for a hydropower company.

In the situations above, although the abstraction or impounding is carried out by a third party, the operator must be the person in control and must be able to demonstrate this to the Environment Agency. A tenancy agreement or other formal contract could demonstrate the control as long as it adequately describes the abstraction responsibilities. The management system will need to clearly outline how the operator will maintain control of the activities and comply with the permit.

## Where can I find more information on what it means to be the operator of a permitted activity?

There is information available on [gov.uk](https://www.gov.uk)<sup>1</sup> and in the [Environmental Permitting Core Guidance](#)<sup>2</sup> on the legal requirements of an operator.

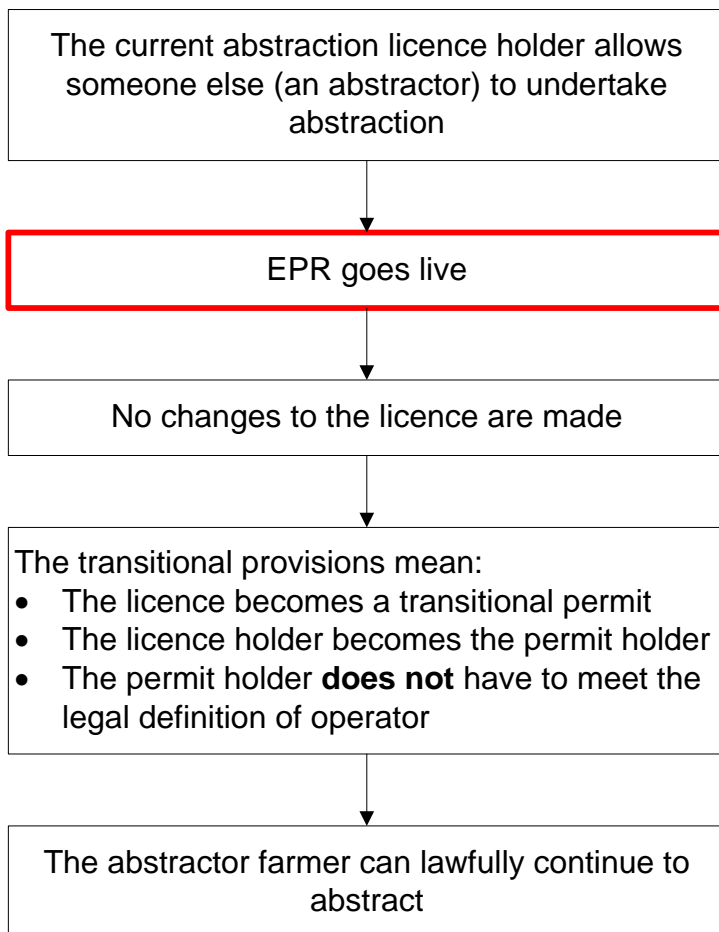
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<sup>1</sup> <https://www.gov.uk/guidance/legal-operator-and-competence-requirements-environmental-permits>

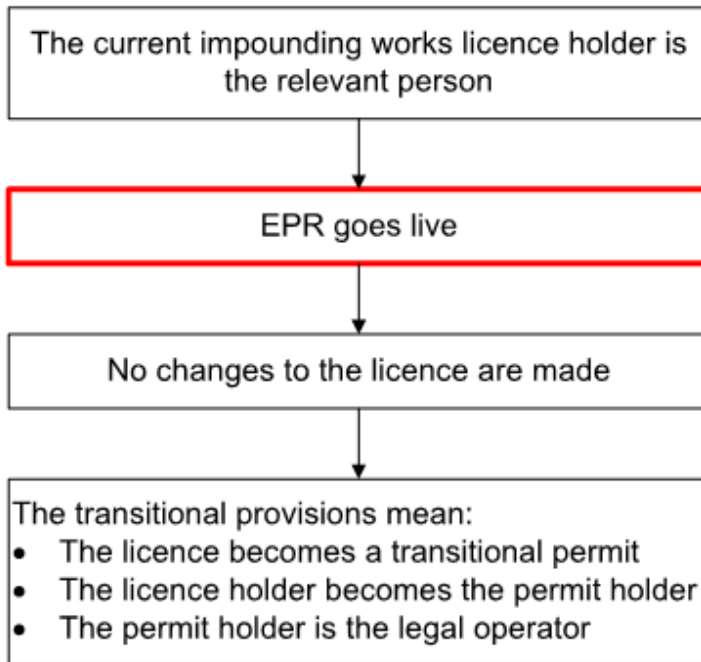
<sup>2</sup> <https://www.gov.uk/government/publications/environmental-permitting-guidance-core-guidance--2>

### Standard transition example - abstraction

This would be a fairly common example for the agricultural sector with the landowner being the licence holder and a tenant farmer being the abstractor. There may be an agreement between the licence holder and abstractor. After the implementation of the EPR this situation could continue without any changes needing to be made to the transitional permit.

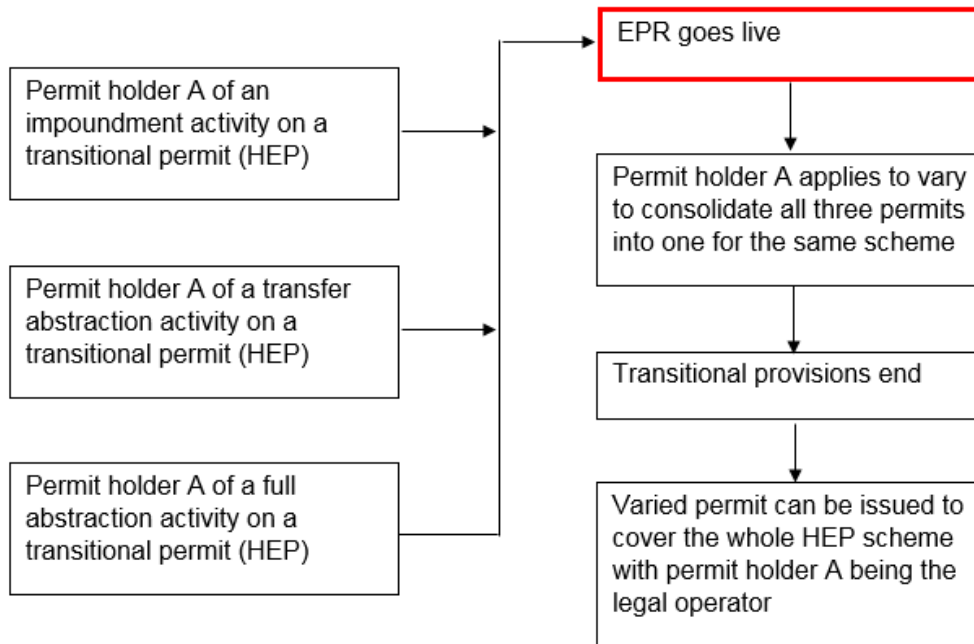


### Standard transition example - impounding



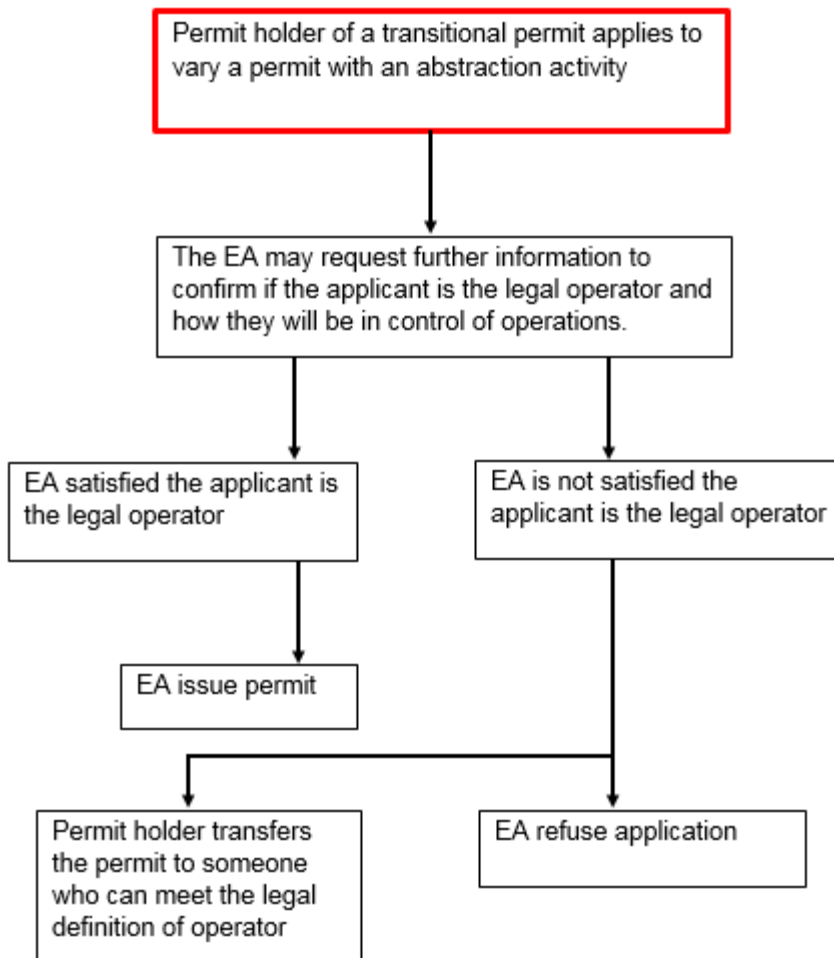
In this example the licence holder simply becomes the permit holder and should already meet the definition of operator.

## Consolidation of transitional permits for a hydropower scheme



In this example permit holder A has 3 transitional permits, originally issued as licences. As these are transitional permits, the permit holder does not have to meet the definition of operator for the abstraction and transfer permits. The permit holder may wish to apply to consolidate the 3 separate permits into one. Doing so would end the transitional provisions, therefore the permit holder would need to be able to meet the definition of operator for all activities on the permit. The permit holder may need additional steps in place to make sure they can meet this requirement.

## Variation of a transitional permit for an abstraction activity



In this example the permit holder has one transitional permit, originally issued as a licence. As this is a transitional permit, the permit holder does not have to meet the definition of operator for the abstraction activity. The permit holder may wish to apply for a variation to that permit e.g. to increase the quantities. Doing so would end the transitional provisions, therefore the permit holder would need to be able to meet the definition of operator for the abstraction activity on the permit. The permit holder may need additional steps in place to make sure they can meet this requirement or would need to transfer the permit to someone who can meet the legal definition (the person in control of the abstraction activity) and that person could then apply for a variation.