

## THE ENVIRONMENT AGENCY (ENVIRONMENTAL PERMITTING) (ENGLAND) CHARGING SCHEME 2018

The Environment Agency in exercise of its powers under section 41 of the Environment Act 1995, and with the approval of the Secretary of State and the consent of the Treasury, makes the following Charging Scheme.

### PART 1

#### GENERAL

##### Commencement, extent and citation

1. This charging scheme shall –
  - (a) be referred to as the Environment Agency (Environmental Permitting) (England) Charging Scheme 2018 (“this Scheme”),
  - (b) extend only to England,
  - (c) come into force on 1<sup>st</sup> April 2018, and
  - (d) remain in force until revoked.

##### Interpretation: general

2. In this Scheme –

“the Regulations” means the Environmental Permitting (England and Wales) Regulations 2016 and, unless otherwise specified, expressions used in this Scheme have the same meaning as those used in the Regulations;

“activity” means an activity which falls within a description in column 2 of the Application Charge Table or Subsistence Charge Table, and which is required to be carried on under a permit;

“application” means –

- (a) an application -
  - (i) for a permit,
  - (ii) to vary, transfer, or surrender a permit,
  - (iii) to partially transfer or surrender a permit, or
  - (iv) to register a WEEE operation, or

- (b) a regulator initiated variation,

made under the Regulations;

“application charge” means a charge described in Part 2 of this Scheme;

“Application Charge Table” means the Table with that title in the Schedule to this Scheme;

“DAA installation” means an installation which does not include the carrying on of an activity described in Part 2 of Schedule 1 to the Regulations, and which is not a low impact installation;

“financial year” means the 12 months ending on 31<sup>st</sup> March;

“local authority installation” means a Part A (2) activity, a Part B activity or a small waste incineration plant in relation to which the Agency is the regulator by virtue of a direction made under regulation 33;

“low impact installation” has the meaning given in the Schedule;

“nuclear site” has the meaning given in the Regulations but also includes a site which would require a nuclear site licence under the Nuclear Installations Act 1965, were it not exempt from this requirement by virtue of other legislation;

“relevant local authority charging scheme” means the Local Authority Permits for Part A(2) Installations and Small Waste Incineration Plant (Fees and Charges) (England) Scheme 2017, or the Local Authority Permits for Part B Installations and Mobile Plant and Solvent Emission Activities (Fees and Charges)(England) Scheme 2017, as the case may be;

“relevant time and material costs” means –

- (a) in relation to a specified radioactive substances activity, those costs and expenses –
  - (i) incurred by the Agency in the determination of an application (including pre-application advice) or the annual subsistence of a permit, based on an hourly rate of £240 in relation to key technical work in relation to a specified radioactive substances activity, and £125 in any other case,
  - (ii) in the case of a radioactive substances activity carried on at a nuclear site, incurred by the Food Standards Agency in carrying out its functions in relation to those matters, or
- (b) in any other case, those costs and expenses incurred by the Agency in relation to the relevant matters described in this Scheme, based on an hourly rate of –
  - (i) £84, in the case of charges arising under paragraphs 13(9) (in relation to medium combustion plant or specified generators only), or 14(1)(a) and (b) of this Scheme,
  - (ii) £125, in the case of charges arising under paragraph 14(1)(d) of this Scheme, or
  - (iii) £100 in any other case,

as notified from time to time by the Agency to the operator (including by way of estimates, subject to later reconciliation);

“specified flood risk activity” means a flood risk activity which –

- (a) consists of works of repair or recovery relating to damage caused by a storm of similar scale and impact to the storms known as “Desmond” or “Eva”, and
- (b) where the application for a permit to authorise that activity is made within 12 months of the last day on which the damage occurred;

“specified radioactive substances activity” means a radioactive substances activity –

- (a) carried on at a nuclear site, or
- (b) which involves the accumulation or disposal of radioactive waste at a regulated facility permitted for the accumulation and then disposal of radioactive waste to land;

“subsistence charge” means a charge described in Part 3 of this Scheme,

“Subsistence Charge Table” means the table with that title in the Schedule to this Scheme.

### **Liability to pay charges**

3. The persons set out below shall be liable to pay the charges under this Scheme –

- (a) in respect of an application charge, the person or persons –
  - (i) applying to hold a permit,
  - (ii) holding the permit to which the application relates, or
  - (iii) applying for the transfer of a permit, or
- (b) in respect of a subsistence charge, the holder of the permit in respect of which the charge is payable.

### **Time of payment**

4. Charges payable under this Scheme shall be due and payable in full at the following times on or after the 1<sup>st</sup> April 2018 –

- (a) subject to sub-paragraph (b), an application charge is payable on the making of an application;
- (b) the following application charges are payable on demand –
  - (i) charges arising under paragraph 10;
  - (ii) charges where the application charge is the relevant time and material costs;
- (c) subject to sub-paragraph (d), a subsistence charge is payable annually on 1<sup>st</sup> April;
- (d) the following subsistence charges are payable on demand –
  - (i) a charge arising in the first year in which a permit is granted or in which the charge becomes payable;
  - (ii) any case where the subsistence charge is the relevant time and material costs;

(iii) any charges arising after 1<sup>st</sup> April in any year, under paragraph 15 of this Scheme;

(e) all other charges are payable on demand.

### **Abatement of charges**

5. The Agency may, by notice to the person liable for the charge, waive or reduce any charge specified in this Scheme if it considers it to be significantly disproportionate in a particular case, having regard to the actual costs and expenses incurred or to be incurred by the Agency in relation to a particular application or subsistence period.

### **Revocation**

6. The Environmental Permitting Charging Scheme 2014 (as amended) which came into effect on 1<sup>st</sup> April 2014 is revoked, in so far as it relates to the charges set out in this Scheme, for any period on or after 1<sup>st</sup> April 2018.

## **PART 2**

### **APPLICATION CHARGES**

#### **Interpretation of this Part**

7. In this Part –

“administrative application” means an application which the Agency considers to be of a purely administrative nature;

“ammonia emissions risk assessment”, “bio-aerosol risk assessment”, “dust management plan”, “fire prevention plan”, “noise management plan”, “odour management plan” and “pests management plan” mean the assessments and plans with those titles described in guidance published by the Agency on Gov.UK;

“application amendment” means a request to make an amendment to an application which the Agency considers requires further public consultation;

“asset management plan” means a plan under which the water companies operate for a five year period;

“combined sewer overflow” and “emergency overflow” have the meanings given in the Schedule;

“farming installation” means an installation falling within Section 6.9 of Part 2 of Schedule 1 to the Regulations;

“further information notice” means a notice served under paragraph 4 of Part 1 of Schedule 5 to the Regulations;

“high public interest application” means an application which the Agency considers requires enhanced public participation in accordance with its public participation statement published under regulation 60 of the Regulations;

“low risk surrender activity” means –

- (a) an activity comprising the permanent deposit of waste, in relation to which the operator has received confirmation from the Agency that a low risk or basic surrender application can be made, in accordance with the guidance in “The surrender of permits for the permanent deposit of waste”, version 2, published by the Agency in December 2012, or
- (b) any other activity, in relation to which the operator has received confirmation from the Agency that intrusive investigation is not required in accordance with the criteria in box 1 of “Site condition report – guidance and templates”, (H5), version 3, published by the Agency in April 2013;

“minor variation” and “normal variation” have the meanings given in the Schedule;

“novel activity ” means an activity of a type which has not previously been authorised by the Agency;

“pre-application advice” means advice given by the Agency in relation to a proposed application for a permit, which goes beyond basic assistance and signposting to guidance;

“relevant charge” means the charge applicable to an activity which is the subject of one of the types of application or regulator initiated variation set out in columns 3 to 8 of the Application Charge Table;

“sensitive location assessment” means an assessment of the risks to a European Site within the meaning of the Conservation of Habitats and Species Regulations 2017;

“waste recovery plan” means a plan submitted to the Agency in order to demonstrate that a proposed activity is a waste recovery operation within the meaning of the Waste Framework Directive.

### **Application charges - general**

- 8. (1) Except in the case of an administrative application or an application for a permit to authorise a specified flood risk activity, an application charge is payable for an application made under the Regulations.
- (2) Subject to sub-paragraph (3) and paragraphs (9) and (10), the application charge shall be the total of the relevant charges applicable to all the activities which are the subject of the application.
- (3) Where more than one activity is the subject of an application for a permit, the relevant charge shall be reduced for each activity, except the one for which the largest charge is payable, by 75% where every activity is a flood risk activity, or in any other case by –
  - (a) 90% for all those activities which fall within the same activity description in column 2 of the Application Charge Table, and
  - (b) 50 % for any other activities which are reasonably associated with each other.

### Application charges – special cases

9. (1) In the case of the following applications, the application charge shall be the relevant time and materials costs –
- (a) an application which relates to a specified radioactive substances activity, a novel activity, or the Agency's functions under the Ship Recycling Facilities Regulations 2015;
  - (b) an application submitted as part of a staged procedure agreed with the Agency.
- (2) In the case of applications made in relation to the following installations, the application charges shall be –
- (a) for a local authority installation, the applicable charge under the relevant local authority charging scheme;
  - (b) for a DAA installation, 90% of the charge applicable to the activity which most closely resembles the DAA installation.
- (3) The application charge for registration of a WEEE operation shall be £1,452.
- (4) In the case of an application to vary a permit –
- (a) where the application is to authorise the operation of an activity which is not already authorised by that permit, the charge shall be the permit application charge applicable to that activity;
  - (b) where the application is to apply standard rules to an activity, the charge shall be the permit application charge applicable to an activity subject to those standard rules;
  - (c) where the application is to vary a permit which authorises only flood risk activities, the applicable charge shall be £68 in the case of a minor variation, and £204 in the case of any other variation;
  - (d) where the application relates to event duration monitoring of combined sewer overflows or emergency overflows for asset management plan 6, under a permit authorising a water discharge or groundwater activity by a sewerage undertaker, the charge shall be £903.
- (5) In the case of an application to transfer a permit -
- (a) where the application relates to only part of the permit, the transfer charge shall be the total of the transfer and normal variation charges applicable to all the activities authorised by the permit at the time of the application;
  - (b) where more than one application to transfer a permit from a single transferor to a single transferee are made reasonably contemporaneously, the transfer charge for each such application, (except the one for which the largest charge is payable, or any that relate to a radioactive substances activity or a landfill), shall be reduced by 80%.
- (6) In the case of an application to surrender a permit or part of a permit –

- (a) the surrender charge shall be the total of the surrender charges applicable to all the activities that have at any time been authorised by the permit (or the part of the permit subject to the application), excluding any activities in relation to which surrender has already been accepted;
- (b) where an activity which is the subject of the application has not been put into operation, the surrender charge for that activity shall be £770;
- (c) where an activity is a low risk surrender activity, the surrender charge for that activity shall be reduced by 80%.

(7) In the case of a regulator initiated variation, the charge is equivalent to the charge that would have been payable if the variation had been made in response to an application.

### **Application charges – additional charges**

10. (1) The following additional charges apply –

- (a) £500, where the Agency incurs or will incur costs in relation to the advertisement of that application;
- (b) £1,930, in relation to an application amendment;
- (c) the relevant time and materials costs relating to pre-application advice.

(2) The following additional charges apply in relation to applications received after 1<sup>st</sup> April 2018 –

- (a) where an application is returned because it is not duly made, a sum equal to 20% of the application charge, subject to a maximum of £1,500;
- (b) £1,200, in relation to the service by the Agency of a third or subsequent information notice in relation to the same issue;
- (c) the relevant time and materials costs relating to a high public interest application, to the extent that those costs exceed the application charge;
- (d) submissions of the following plans and assessments –
  - (i) £1,231, for a waste recovery plan or any variation or revision to a waste recovery plan;
  - (ii) except in relation to a flood risk activity, £779, for a sensitive location assessment;
  - (iii) except in relation to a farming installation, £1,241, for a bio-aerosol risk assessment, fire prevention plan, pest management plan or dust management plan;
  - (iv) £1,246, for an odour management plan or noise prevention plan;
  - (v) In relation to a farming installation, £620, for an ammonia emissions risk assessment or a bio-aerosol risk assessment.

## PART 3

### SUBSISTENCE CHARGES

#### Interpretation of this Part

11. In this Part –

“accredited farming installation” has the meaning given in the Schedule;

“authorised activities” means all those activities authorised by a permit;

“compliance rating adjustment” means the relevant percentage figure set out in box 1 below, attributable to the compliance rating accorded to those authorised activities which are installations (excluding accredited farming installations) or waste operations by the Agency under the [Compliance Scheme] on 31st December in the calendar year preceding the year in which the charge is payable, or on the date on which the permit is first granted, if later –

Box 1

Band	A	B	C	D	E	F
Compliance rating adjustment (%)	95	100	110	125	150	300

“[Compliance Scheme]” means the scheme published on Gov.UK, titled “xxx”, version 1;

“deployment application” means an application made under the conditions of a permit authorising the operation of mobile plant, to deploy that plant to a different site;

“deployment charge” means the charge applicable to an activity set out in the column titled “deployment charge” in the Subsistence Charge Table;

“hydraulic fracture plan” means a plan produced by the operator containing information on the hydraulic fracturing techniques to be carried out, including monitoring of fractures;

“intermittent discharge” means non-continuous sewage discharges from the sewerage network, sewage treatment systems or trade effluent processes where the discharge is to accommodate circumstances outside the control of the operator;

“materials facility notification” means a notification made by the operator of a materials facility under paragraph 1 of Part 2 of Schedule 9 to the Regulations;

“relevant activity charge” means the charge applicable to a single activity under the Subsistence Charge Table;

“type” and “volume”, in relation to a water discharge activity, have the meanings given in the Schedule.

#### Application of subsistence charges



12. (1) Subject to the other provisions of this paragraph, a subsistence charge is payable for the subsistence of a permit, for any full or part financial year during which that permit is in force.
- (2) Except in a case where the annual charge is the relevant time and materials costs or the authorised activity falls within Part 2.6 of the Subsistence Charge Table, no subsistence charge is payable until either construction work in relation to, or the operation of, any of the authorised activities has commenced (whichever is the earlier).
- (3) In the case of a permit authorising the operation of an activity from a specified date, the subsistence charge shall only be payable in relation to that activity, for any period following that specified date.
- (4) No subsistence charge is payable where a permit authorises only –
- (a) a specified flood risk activity,
  - (b) a flood risk activity where no compliance check is carried out in relation to that activity during the financial year, or
  - (c) a discharge of sewage effluent of a volume of 5 cubic metres or less from a domestic household or an organisation that operates for charitable purposes as defined in section 2 of the Charities Act 2006.

#### **Subsistence charges – general**

13. (1) Subject to the other provisions of this paragraph, and to paragraphs 14 and 15, the subsistence charge shall be the total of the relevant activity charges applicable to the authorised activities, multiplied by the compliance rating adjustment (where this applies).
- (2) No relevant activity charges falling within Part 2.3 of the Subsistence Charge Table apply except where the authorised activities –
- (a) are stand-alone water discharge or groundwater activities, or
  - (b) fall within one or more description in Parts 2.8, 2.11, 2.16 or 2.17.
- (3) Where any of the authorised activities fall within a description in Parts 2.4, 2.7 or 2.9 of the Subsistence Charge Table, no relevant activity charges shall apply except –
- (a) those contained in the relevant Part applicable to the authorised activities, and
  - (b) any which fall within Part 2.16.
- (4) Where any of the authorised activities fall within a description in Part 2.16 of the Subsistence Charge Table, the relevant activity charges for those activities shall be –
- (a) the highest applicable charge for any installation falling within that Table, and
  - (b) the highest applicable charge for any other waste operation falling within that Table.
- (5) Subject to sub-paragraph (6), where the authorised activities include a water discharge activity or groundwater activity consisting of the discharge of more than one effluent, a charge is made for each such effluent, whether or not they are discharged together or from one or more outlets.
- (6) Except in the case of an intermittent discharge, where the effluents receive treatment together (or having been treated are then joined together for monitoring), the charge shall be the highest charge applicable to a single discharge of that type, having first aggregated the

volumes of all the discharges of that type, unless this results in a higher charge than would otherwise be payable.

(7) Where a permit authorises a water discharge activity or groundwater activity for no more than 6 days in each year, the charge shall be reduced by 44%.

(8) Unless sub-paragraph (7) applies, where a permit prevents a water discharge activity or groundwater activity from taking place for a period of at least three consecutive calendar months in a year, the charge shall be reduced by 4% for each such whole calendar month.

(9) Where the permit authorises a specified radioactive substances activity or a medium combustion plant or specified generator, the subsistence charge for those activities shall be the relevant time and material costs.

(10) In the case of a local authority installation, the subsistence charge shall be the applicable charge under the relevant local authority charging scheme.

### **Subsistence charges – additional charges**

14. (1) Additional charges shall apply, consisting of the relevant time and materials costs relating to the following –

- (a) an unplanned event which causes or gives rise to a risk of significant harm to human health or the environment arising from the authorised activities;
- (b) a suspension notice;
- (c) an approval or agreement given by the Agency under a permit condition (except where no technical assessment is involved);
- (d) the approval and subsequent supervision of the implementation of, a hydraulic fracture plan.

(2) The following additional charges apply –

- (a) £2,559, for every year where the authorised activities include a closed landfill which the Agency considers presents a significant risk to the Environment;
- (b) £672, for the first year of operation of any authorised activities which commence after 1<sup>st</sup> April 2018;
- (c) in relation to a deployment application, the applicable deployment charge;
- (d) £2,240 for the year in which a materials facility notification is made, subject to adjustment, pro rata, where the notification is in force for only part of a year.

### **Mid-year adjustments**

15. The following mid-year adjustments shall be made –

- (a) in the case of a permit which, after the date on which the subsistence charge is payable in any year, is revoked or surrendered, or is varied in such a way as would affect the calculation of the subsistence charge, the charge shall be adjusted pro rata so that no charge, or the appropriate revised charge, is payable from the date on which the revocation, surrender, or variation (as the case may be), takes effect;

- (b) where the Agency considers that the operation of an activity is likely to cease for a period exceeding 12 months , the subsistence charge shall be reduced by 50% pro rata for the period during which the activity remains in temporary cessation, up to a maximum of 2 years;
- (c) in a case where, by reason of a legislative amendment after the date on which the subsistence charge is payable in any year, an authorised activity ceases to be required to be authorised or where the nature of the requirement to be authorised changes in a way which would affect the calculation of the subsistence charge, the charge shall be adjusted pro rata from the date of the relevant amendment so that no charge, or the appropriate revised charge, is payable from the date of the amendment.

Signed for and on behalf of the Environment Agency,

Title:

Date:

DRAFT