



6 June 2012

CONSULTATION ON THE TRANSPOSITION OF THE INDUSTRIAL EMISSIONS DIRECTIVE IN ENGLAND AND WALES

INTRODUCTION

1. The UK Environmental Law Association (**UKELA**) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study and formulation of environmental law in the UK and the European Union. UKELA attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.
2. UKELA prepares advice to government with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared with the help of the Waste Working Party.
3. UKELA makes the following comments on the Defra/Welsh Government consultation on the transposition of the industrial emissions Directive in England and Wales.

GENERAL COMMENTS

4. UKELA has specific comments in response to only two of the consultation questions, but has considered the proposed transposition of the Directive against three criteria:
 - (a) Coherence - is it well put together?
 - (b) Integration - does it mesh with other laws and regimes?
 - (c) Transparency - is it accessible?

PLEASE CONSIDER THE DRAFT AMENDING REGULATIONS AS A WHOLE AND COMMENT ON ANY PERCEIVED DEFICIENCIES OR UNCERTAINTIES.

5. UKELA generally supports the use of the Environmental Permitting Regulations to transpose the Directive. However, the use of a lengthy set of amending Regulations does not assist in making the Environmental Permitting Regulations transparent or accessible as a piece of legislation, particularly as the Environmental Permitting Regulations were amended twice in 2011 and have already been amended once this year. The Directive is a major piece of legislation which impacts on thousands of installations and UKELA considers that its transposition merits issuing a consolidated set of Environmental Permitting Regulations rather than issuing the fourth set of amending Regulations to be issued in two years, which will only serve to create confusion.

WE SHALL BE GRATEFUL FOR COMMENTS ON THE FORM AND CONTENT OF THE DRAFT GUIDANCE WHICH ACCOMPANIES THIS CONSULTATION.

6. UKELA has no specific comments on the form or content of the draft guidance, but from the perspective of coherence and transparency it welcomes the fact that Defra and the Welsh UK Environmental Law Association: making the law work for a better environment

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Government have issued draft guidance for consultation alongside the draft Regulations the guidance is to accompany. It is very difficult to comment on draft Regulations which are to be accompanied by guidance if both the draft Regulations and draft guidance are not consulted on together.

OTHER COMMENTS

7. UKELA's only other comment is in relation to the review of the Regulations proposed in section A14 of the consultation document. UKELA supports the concept of legislation being subject to scrutiny to ensure its continued effectiveness, but queries whether this review process should be a ministerial review, as proposed, or a review by an independent body charged with the review of legislation.

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