



The Environmental Permitting Regulations 2010

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What the Environment Agency does

- ➔ Environmental regulator
- ➔ Environmental operator
- ➔ Environmental adviser

Outline of presentation

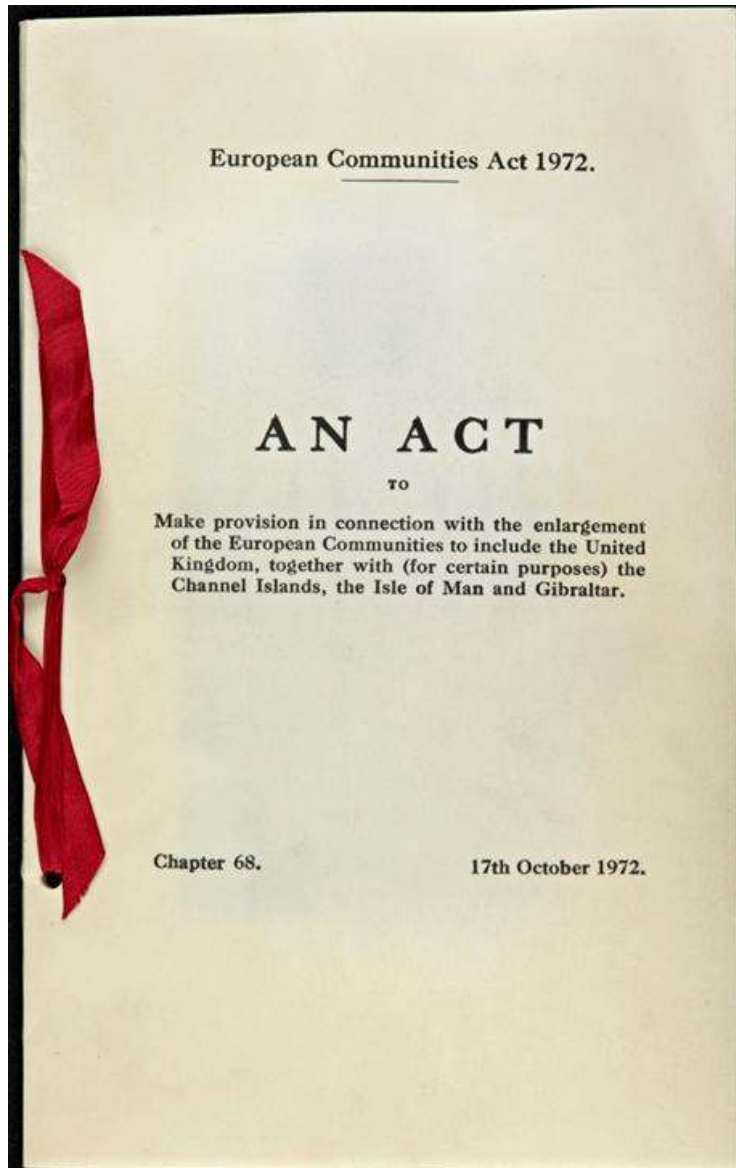
- ➔ Why environmental permitting?
- ➔ Structure
- ➔ Procedure
- ➔ Enforcement
- ➔ Recent changes

The Vision: a strategic approach to permitting and compliance

- ➔ A wider risk-based and proportionate single system delivering:
 - ➔ Cuts in unnecessary red tape
 - ➔ Continued protection of the environment and human health
 - ➔ Increased clarity and certainty for everyone on how the Regulations protect the environment
- ➔ Cost of separate parallel systems doing the same thing

Drivers: the Better Regulation agenda and increased complexity

- ➔ Government wanted to reduce the administrative burden of regulation on industry
- ➔ The Environment Act 1995 created common powers of charging and entry, but....
- ➔ No attempt to create a common approach to environmental permitting
- ➔ Increasing complexity since then until ...
- ➔ Environmental Permitting Regulations



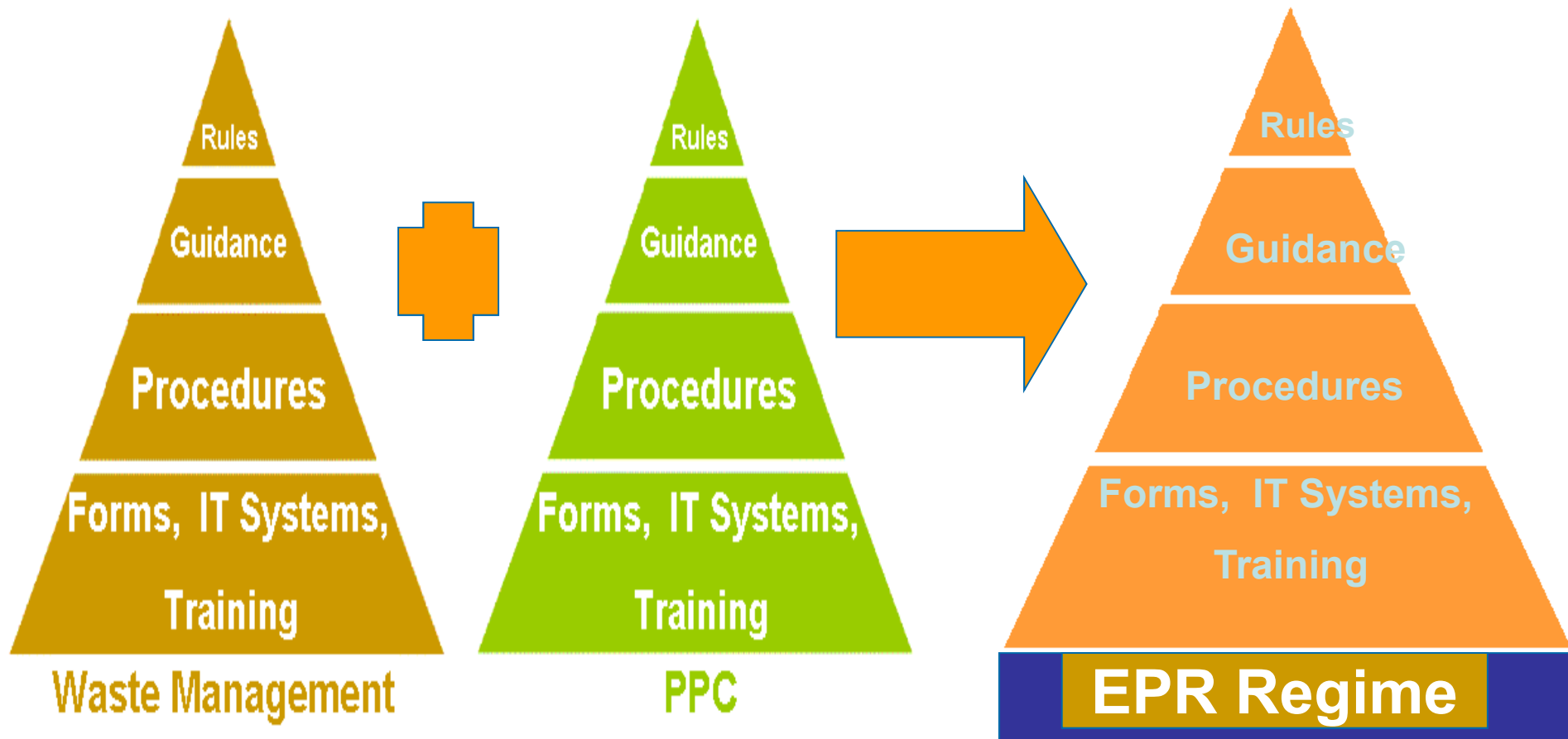
Much of the law we apply based on EU law

The legal basis of transposition:

- Section 2(2) ECA used for EPR The method of transposition
- Referential drafting - EPR as a conduit

Schedules and exercise of relevant functions

- ➔ The aim: to deliver the requirements of Directives and policy through the permitting and compliance system
- ➔ EU law requirements delivered various Schedules
- ➔ Schedules require regulators to exercise their relevant functions to ensure compliance with specified provisions



What the EPRs are and are not

What it is:

- ⇒ a common, risk-based platform for permitting and compliance
- ⇒ a platform for maximum flexibility
- ⇒ delivers the requirements of Directives and national policy
- ⇒ a joint Government/regulator exercise
- ⇒ Secondary legislation

What it is not changing (unless we wish to change it):

- ⇒ who regulates (a site-specific transfer of regulator provision exists)
- ⇒ environmental standards
- ⇒ environmental outcomes

How they fit together

➔ Tiers of control

➔ Bespoke Permit

➔ Standard Permit

➔ Exemptions

➔ Exclusions

Determination procedure

- ⇒ Unified procedural provisions for all **applications**
 - ⇒ Permits
 - ⇒ Consolidation
 - ⇒ Variations
 - ⇒ Transfers (partial/whole)
 - ⇒ Surrenders (partial/whole)

Public participation / Public Registers

Waste Fires, Waste Crime, Poor Performance and the EPRs



Enforcement available powers

- ➔ Discussions before more formal action
- ➔ Variation notice
- ➔ Enforcement notices operator has contravened, is contravening, or is likely to contravene any permit conditions (reg 36)
- ➔ **Suspension notices (in full/part): operation involves risk of serious pollution (reg 37)**
- ➔ Revocation notices (reg 22)
- ➔ Appeals

Available powers

- ➔ Prohibition notices (schedule 22 para 9)
- ➔ Court orders under reg 42 and injunctions
- ➔ Prosecution (reg 38) & Defences emergency
- ➔ Remediation notices (reg 57)
- ➔ Information notices (reg 60)

- ➔ Enforcement Undertakings (since April 2015)

Enhanced Powers of Enforcement

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- ➔ Suspension notice power broadened
 - ➔ Risk of pollution and breach of permit
- ➔ Display of notice at the gate
- ➔ High Court proceedings to secure compliance (whether or not other steps taken)
- ➔ Regulators can arrange for steps to be taken to remove risk of serious pollution

Future Considerations

- ➔ Questions around the entry level for waste sites:
 - ➔ Financial Provision
 - ➔ Technical Competence
- ➔ Orphan Waste Sites
- ➔ Landowner awareness

