



Q&A on Environmental Law in UK (England and Wales)

C L I F F O R D
C H A N C E



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Introduction

Using a Q&A format, this article provides a guide to environmental law in the UK (England and Wales) and gives a practical description of a wide range of topics including:

- Emissions to air and water
- Environmental impact assessments
- Waste
- Contaminated land
- Environmental issues in transactions

The article was prepared by Michael Coxall and Elizabeth Hardacre of Clifford Chance, London. Details of the authors can be found in the Appendix.

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Environmental regulatory framework

1. What are the key pieces of environmental legislation and the regulatory authorities in your jurisdiction?

A significant proportion of environmental legislation in England and Wales originates from EU law, which is directly applicable or implemented through national legislation. The principal environmental regimes are:

- Environmental Permitting Regime (EPR), combining the pollution prevention and control (PPC) regime and waste management licensing and industrial emissions (see Question 5).
- Water (see Question 6).

- Waste (in relation to aspects not dealt with under EPR) (see Question 12).
- Contaminated land (see Questions 14 to 17).
- Conservation of nature, wildlife and habitats.
- Environmental impact assessments (EIAs) (see Question 11).

Health and safety and planning matters are regulated separately from environmental matters, but are interlinked. For example, the clean-up of contaminated land is generally required under the planning regime (during redevelopment) rather than the contaminated land regime (see Question 14).

The UK government passes legislation for England, and on some matters in Wales. For all remaining matters in Wales, the National Assembly for Wales has powers to legislate. In England the main body responsible for developing environmental policy and drafting environmental legislation is the Department for Environment, Food and Rural Affairs

(DEFRA) although the Department of Energy and Climate Change (DECC) generally handles issues relating to climate change (see The Regulatory Authorities, below). Apart from where the UK government has competence, the Welsh government develops environmental policy for Wales.

This article refers to the government in the UK, unless specified.

The Environment Agency (EA) (in Wales, Natural Resources Wales (NRW) is the main body responsible for issuing permits and enforcement, although in some cases the local authority (LA) carries out these functions (see The Regulatory Authorities, below).

Environmental liability can arise under:

- Criminal law.
- Civil law.
- Public or administrative law.
- Company law.

Criminal law

The sanction for breach of most environmental laws is prosecution of an individual or company by the relevant regulator in the criminal courts. The maximum penalties are usually as follows:

- Lower courts: GB£50,000 and/or 12 months' imprisonment.
- Higher courts: unlimited fine and/or five years' imprisonment.

Company directors and officers can be prosecuted if the criminal offence was committed with their consent or connivance, or was attributable to their neglect.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 was passed in May 2012. It provides that wherever a statute or common law offence could result in a fine of GB£5,000 or more (the current amount established as level five on the standard scale), magistrates can now apply a fine of any amount (that is, unlimited). This section is not yet in force, but once brought into force, will apply to most environmental offences.

Civil law

Private persons can bring civil law claims for harm caused by environmental matters, usually under the common law of nuisance or negligence (see Question 17). Claims are

usually for damages, but the courts can also grant an injunction.

Public or administrative law

Regulators can serve enforcement notices on operators requiring them to rectify breaches of environmental law. Failure to comply with enforcement notices can constitute a criminal offence. In some cases, regulators can shut down an operator's activities until the breach has been rectified.

Third parties, including non-governmental organisations (NGOs), can challenge the validity of a public authority's decision through judicial review and have an express right to request that regulators take action if either:

- Environmental damage is occurring.
- There is an imminent threat of environmental damage.

Company law

Company law imposes a duty on directors to promote the company's success for the benefit of its members as a whole, taking into account the effect of the company's operations on the community and the environment. If a director breaches this duty, shareholders may be able to bring a derivative action on behalf of the company against the director, even if he has not benefitted from the breach.

Regulatory enforcement

2. To what extent are environmental requirements enforced by regulators in your jurisdiction?

The EA (as the principal regulator) takes its enforcement powers very seriously. However, it does not have the necessary resources to enforce in every case and has therefore adopted an enforcement and prosecution policy to assist it in deciding which cases to pursue. Enforcement is generally discretionary, but in some cases enforcement is compulsory. For example, the EA or LA must serve a remediation notice if it finds land to be contaminated, unless remediation can be carried out voluntarily (see Question 14). The EA therefore tends to prioritise the more serious breaches and recurring breaches.

The Regulatory Enforcement and Sanctions Act 2008 provides for a number of forms of civil sanction to be used

by certain regulators, instead of immediate reliance on criminal prosecution. These penalties include:

- Fixed or variable monetary penalties.
- Compliance notices.
- Restoration notices.
- Stop notices.
- Enforcement undertakings.

Civil sanctions can currently be imposed in relation to certain regulatory regimes (such as waste packaging) but have been delayed for others (such as environmental permitting, see Question 4).

In relation to reforms in the civil sanctions area see Question 30, Civil sanctions.

Natural Resources Wales took on regulatory responsibility for Wales from 1 April 2013 and to-date its enforcement practice remains to be seen.

Environmental NGOs

3. To what extent are environmental non-governmental organisations (NGOs) and other pressure groups active in your jurisdiction?

NGOs (such as Greenpeace and Friends of the Earth) are very active, particularly in influencing environmental law and policy. NGOs and local pressure groups often attempt to challenge the decisions of public authorities (by judicial review) and to divert the proposals of large companies that they consider to be harmful to the environment. For example, in 2013 a number of claimants (including interest groups and local authorities) sought judicial review of various elements of the government's High Speed rail project (HS2) including on grounds of non-compliance with various environmental assessment requirements and insufficient consultation. Whilst the consultation ground of challenge was upheld by the Court, ultimately it has not stopped the project as the project applicants were able to remedy the deficiencies with further consultation.

- NGOs also have powers to:
- Bring a derivative action against a company's directors to ensure that the environment is fully considered.

- Request action under the Environmental Damage (Prevention and Remediation) Regulations 2009 (SI 2009/153) (ED Regulations).

See Question 1, Public or administrative law.

Environmental permits

4. Is there an integrated permitting regime or are there separate environmental regimes for different types of emissions? Can companies apply for a single environmental permit for all activities on a site or do they have to apply for separate permits?

Integrated/separate permitting regime

There is an integrated environmental permitting regime (EPR) which came into force on 6 April 2008. On that date it automatically converted the previous PPC regime permits and waste management licences into Environmental Permits (EP). On 6 April 2010, water discharge activities, groundwater discharge activities and radioactive substances registration and authorisation were also brought under the EPR and existing consents were automatically converted. Most recently, the EPR were amended to implement the Industrial Emissions Directive 2010 (IED) which consolidated a number of earlier EU Directives and requirements.

The key activities regulated under the EPR are:

- Activities or specified installations listed in Schedule 1 to the EPR (these cover a wide range of industrial and power generation activities and include installations covered by the Integrated Pollution Prevention and Control, IPPC, regime under the IED).
- Waste operations.
- Mobile plant (used to carry on either one of the Schedule 1 activities or a waste operation).
- Mining waste operations.
- Water discharge activities.
- Radioactive substances activities.
- Groundwater activity.
- Small waste incineration plant.
- Solvent emission activity.

- The activities are regulated to differing degrees. The more polluting industries (known as Part A (1) and Part A (2) installations), including some waste management operations such as landfills and large incinerators are regulated in terms of all their emissions and energy efficiency, while lesser-polluting activities (known as Part B installations) are regulated only in relation to their air emissions.
- Single/separate permits

Important features of the EPR

These can be summarised as follows:

- Regulated activities must operate pursuant to an environmental permit (EP).
- A single EP can be issued for multiple installations on a single site, and some regulated facilities may be "carried on as part of the operation of a regulated facility of another class", in some circumstances.
- In addition to traditional bespoke permits, standard permits (with standard conditions) can be granted for a number of less-polluting waste activities and this may be extended to other sectors in the future.
- Certain low level waste management operations are fully exempted from holding an (EP), subject to complying with registration and notification obligations.

5. What is the framework for the integrated permitting regime?

The EPR establishes (see Question 4):

Facilities which need an EP, and those which can be registered as exempt.

The relevant processes including application, determination and appeals of EPs, public participation in the EP process, and amending or surrendering EPs, and how to register an exempt facility.

Requirements for EPs to contain conditions in accordance with EU Directives and national policy, to protect the environment.

Compliance obligations, backed up by enforcement powers and offences, and the powers and functions of regulators.

Schedules to the EPR identify a series of requirements to be delivered through the EP and are relevant for permitting each of the regulated activities listed above. Each EU Directive or policy area covered by the EPR has a specific schedule which establishes compliance requirements.

Subject to these schedules, additional important

requirements can be imposed, for example the IED requires that some installations must be operated according to the best available techniques (BAT) balancing the costs to the operator and environmental benefits. The European Commission (Commission) has produced guidance notes on what constitutes the BAT for various industry sectors.

Generally under EPR, operators should be technically competent to operate their facility. However, for some waste operations (for example, large landfills and waste incinerators), as well as requiring technical competence, EPs will only be granted to fit and proper persons, and are unlikely to be granted to persons who have been convicted of an offence relating to the environment or to a person's conduct as the operator of a waste facility.

Permits and regulator

Operators of installations, mobile plant and other activities subject to the EPR must hold an EP, issued by the relevant regulator.

EPs are generally regulated by the EA or NRW, although some less-polluting activities (such as Part A (2) and B installations) are regulated by the LA.

Length of permit

Permits are not time-limited but remain subject to review. The regulator must periodically review conditions of permits and ensure that they are being complied with.

The regulator can suspend a permit if operations involve a risk of serious pollution. In addition, a permit can be revoked in "appropriate circumstances". Each of these procedures are subject to appeal rights.

Restrictions on transfer

EPs can be transferred completely or partially. Transfer by joint notification to the regulator by the operator and proposed transferee can be effected for standalone water discharge or groundwater activity. In all other cases a joint application with the proposed new operator must be made.

The regulator must refuse the transfer if either:

- It considers that the transferee will not be the operator of the activity or will not comply with the permit conditions. The primary consideration in transferring a permit is the proposed new operator's competence to operate the regulated facility.
- In relation to waste activities, the fit and proper person test is not satisfied.

EPs can also be surrendered. EPs granted in relation to Part B installations (except to the extent it relates to a waste operation), mobile plant and standalone water discharge and groundwater discharge activities can be surrendered through notification to the relevant authority.

All other EPs (including Part A installation permits) can only be surrendered on application to the relevant authority. The EP can be surrendered if both:

- The relevant authority is satisfied that the operator has taken appropriate steps to avoid any pollution risk from the activity.
- The site has been returned to a satisfactory state (which can involve remediation of contamination caused by the activity while the permit was in place).

Penalties

The regulator can:

- Serve enforcement or suspension notices on an operator for contravention of an EP.
- If there is a serious risk of pollution, specify steps that the operator must take.
- Take enforcement action in the event of an accident or incident that significantly affects the environment at a Part A installation, waste incineration plant or plant carrying out a solvent emissions activity.

Operating without a permit, or failure to comply with the conditions of a permit or with the requirements of an enforcement notice or suspension notice, is a criminal offence punishable with:

- On summary conviction: a fine not exceeding GB£50,000 and/or imprisonment for a term not exceeding 12 months.
- On indictment: an unlimited fine and/or an imprisonment term not exceeding five years.

If an offence results in pollution, the regulator can take steps to remedy the pollution and recover the costs from the operator. (See also Question 2.)

Water pollution

6. What is the regulatory regime for water pollution (whether part of an integrated regime or separate)?

Permits and regulator

Water discharge activities and groundwater discharge activities are permitted through the EPR (see Questions 4 and 5).

Prohibited activities

A water discharge activity covers a number of activities including discharge or entry into inland waters, freshwaters, coastal waters or territorial waters of any poisonous, noxious or polluting matter, waste matter, trade effluent or sewage effluent.

A groundwater discharge activity includes the discharge of a pollutant that results in the direct input, or can lead to the indirect input, of that pollutant into groundwater. Undertaking these activities without an EP is prohibited.

Clean-up/compensation

The regulator can exercise the relevant powers and apply the available penalties, under the EPR (see Question 5, Penalties).

Penalties

It is an offence to cause or knowingly permit a water discharge activity or groundwater activity except under, and to the extent authorised by, an EP.

Air pollution

7. What is the regulatory regime for air pollution (whether part of an integrated regime or separate)?

Permits and regulator

The EPR regulates emissions into air for the most polluting installations (see Question 4, Integrated/separated planning regime).

Emissions of sulphur dioxide, nitrogen oxides and particulate matter from large combustion plants (over 50 megawatts) are subject to controls imposed by the EPR

and EU Directives on the limitation of emissions of certain pollutants into the air from large combustion plants.

Certain energy and metal ore activities fall within the EU emissions trading scheme (ETS) and require a greenhouse gas permit (see Question 10).

Prohibited activities

For non-EPR activities it is an offence to emit "dark smoke" from industrial or trade premises (section 2, Clean Air Act 1993). Offenders can be punished with a fine of up to GB£20,000. See Question 30.

Clean-up/compensation

See Question 5, Penalties.

Penalties

See Question 5, Penalties.

Climate change, renewable energy and energy efficiency

8. Are there any national targets or legal requirements for reducing greenhouse gas emissions, increasing the use of renewable energy (such as wind power) and/or increasing energy efficiency (for example in buildings and appliances)? Is there a national strategy on climate change, renewable energy and/or energy efficiency?

Emissions targets

The government is subject to greenhouse gas (GHG) emissions reduction targets from several sources. It is subject to Kyoto Protocol targets (see Question 9).

Domestically, the Climate Change Act 2008 commits the UK to a 34% reduction in GHG emissions by 2020 and an 80% reduction in GHG emissions by 2050 (in each case as against 1990 levels) (sections 1 and 5, Climate Change Act 2008).

The EU has made a unilateral commitment that Europe will cut its emissions by at least 20% of 1990 levels by 2020. This will increase to 30%, if there is global agreement. The

government's Carbon Plan published in December 2011 sets out its strategy on reducing GHG emissions (and other climate change related actions).

Increasing renewable energy

Directive 2009/28/EC on the promotion of the use of energy from renewable sources (Renewable Energy Directive) requires renewable energy to form 20% of total EU energy consumption by 2020, although this may be raised to 30% in future. The UK's contribution to the EU-wide target is 15% by 2020. In addition, the Renewable Energy Directive imposes an obligation on member states (including the UK) to ensure that at least 10% of overall transport fuel consumption comes from renewable sources (largely to be met by increasing the use of sustainable biofuels). Various UK regulations implement these requirements into domestic law.

There are no prescriptive requirements for the deployment of certain renewable technologies, instead there is a general policy aim to encourage development of renewable generation capacity. The Renewable Energy Roadmap (published in July 2011) sets out the pathway by which the renewable energy targets will be met and it describes the role that various technologies will play in meeting the 2020 targets.

Additional strategies on bioenergy and heat were published in April 2012.

Increasing energy efficiency

There are no specific legally binding national targets for increasing energy efficiency of buildings. However, there are a number of policy measures designed to achieve this objective.

The Green Deal is one of the UK's latest policy measures and will enable homeowners and businesses to undertake energy efficiency works to their properties and spread the cost over a number of years.

In addition to older housing stock (which the Green Deal is primarily aimed at), the government hopes that the following buildings will be zero-carbon:

- For new non-domestic buildings 2019.
- For new public sector buildings from 2018.
- For new schools from 2016.

These targets will be achieved partly through changes to legally binding building regulations, which are one of the principal methods of establishing energy efficiency standards for buildings.

One of the major policy measures to increase the energy efficiency of buildings is the CRC Energy Efficiency Scheme (see Question 10, CRC energy efficiency scheme).

The government has set up the Energy Efficiency Deployment Office to develop its energy efficiency strategy, which was published in November 2012.

On 25 October 2012, the EU adopted the Directive 2012/27/EU on energy efficiency. This Directive establishes a common framework of measures for the promotion of energy efficiency within the Union. This is to ensure the Union achieves a 20% headline target on energy efficiency by 2020 and to lead the way for further energy efficiency improvements beyond that date. It lays down rules designed to remove barriers in the energy market and to overcome market failures that hinder efficiency in the supply and use of energy. In particular the Directive provides for the establishment of indicative national energy efficiency targets for 2020 and a compulsory requirement for large companies to have energy audits every four years. Member States are required to bring into force the laws necessary to comply with the Directive by 25 June 2014 (Article 28(1)). Discussions over implementation in the UK are ongoing.

9. Is your jurisdiction party to the United Nations Framework Convention on Climate Change (UNFCCC) and/or the Kyoto Protocol? How have the requirements under those international agreements been implemented?

Parties to UNFCCC/Kyoto Protocol

The EU and the UK are parties to the UNFCCC and the Kyoto Protocol.

The EU's emissions reduction target under the Kyoto Protocol was to reduce its greenhouse gas emissions by 8% from 1990 levels in the period 2008 to 2012 (the end of the first commitment period). The EU's target was redistributed among member states, and the UK agreed to a 12.5% reduction for the first commitment period. A second commitment period has now been agreed until 2020 with parties setting their own reduction objectives. The Parties have also agreed to an amendment to the Kyoto Protocol to provide for an overall objective of reducing emissions by 18% below 1990 levels by 2020 (the original objective was a 5%

reduction below 1990 levels in the first commitment period). The EU and Member States have committed to this target on a joint basis (and the EU has pledged to strengthen the commitment to a 30% reduction if a strong international agreement is reached). Parties that have signed up to the second commitment period will review their emissions reduction objectives in 2014.

Implementation

The EU Emissions Trading System (EU ETS) has been implemented at the EU-level to reduce emissions, and there have also been domestic measures implemented in the UK. See Question 10.

10. What, if any, emissions/carbon trading schemes operate in your jurisdiction?

EU ETS overview

As an EU member state, the UK is covered by the EU ETS, which works in four compliance stages:

- Phase I of the EU ETS ran from 2005 to 31 December 2007.
- Phase II ran from 1 January 2008 to 31 December 2012.
- Phase III started on 1 January 2013 and will run to 31 December 2020(see below, Phase III).
- Phase IV will begin in 2021.

The EU ETS applies to specified heavy industrial activities and establishes a mandatory cap and trade system. Participants must surrender allowances (or other credits) at the end of each compliance period to match their emissions. Failure to comply will result in a penalty. Each allowance represents the emission of one tonne of carbon dioxide.

Following allocation and auctioning, allowances are subsequently traded in an online registry enabling companies to purchase additional allowances to meet their obligations. To obtain and surrender allowances, a participant must have an account in an online registry.

Operators can also obtain credits (that can be traded in the EU ETS) by investing in:

- Qualifying projects to reduce emissions in industrialised countries and certain countries in economic transition (known as joint implementation (JI) under the Kyoto Protocol).

- Projects to reduce emissions in developing countries (known as the clean development mechanism (CDM) under the Kyoto Protocol).

Operators can surrender these credits as well as EU allowances to comply with their obligations under the EU ETS.

In the UK, in addition to surrendering allowances (or other credits) to match their emissions, participants in the EU ETS must also obtain a greenhouse gas permit from the Environment Agency.

Aviation

From 1 January 2012, the EU ETS covers any aircraft operator, whether EU- or foreign-based, operating international flights on routes to, from or between EU airports. There are certain exemptions, including for light aircraft, military flights, flights for government business and test flights. Various complaints were made by non-EU countries at the inclusion of flights to or from destinations outside the EU into the EU ETS. As a result the EU excluded such flights during 2012 from the EU ETS, pending discussions at international level over the future position of international aviation in the scheme.

Phase III

The main changes for Phase III are as follows:

- There is a single EU registry for all users, which was activated on 20 June 2012, rather than national member state registries.
- There is a single EU-wide cap on emissions, which will decrease annually meaning that the former National Allocation Plans will no longer be required.
- Other greenhouse gases and industrial sectors will be included.
- Allocation of allowances will be replaced to a large degree by auctioning, with at least 50% of allowances auctioned from 2013 (and 100% auctioning for the power sector in the UK).
- The use of credits from JI and CDM projects is limited.

Large combustion plants (LCPs)

To comply with the LCP Directive, pre-1987 LCPs (including many power stations) can choose to either:

- Adopt the emission limit values route (regulating newer LCPs).
- Be governed by a National Emissions Reduction Plan (NERP), which is backed up by an emissions trading

scheme (allowing trading of emission allowances for substances with other NERP operators).

CRC energy efficiency scheme

This is a regulatory trading scheme, which aims to reduce:

- Participating companies' energy consumption.
- Associated carbon dioxide (CO₂) emissions.

The scheme covers between 4,000 and 5,000 businesses including, for example, property investment companies, professional service firms, banks, retailers and office-based corporations. The participants must buy allowances from the government representing the carbon dioxide emitted in producing the energy they consume in each compliance year (running from April to March).

An introductory phase of the scheme is running from April 2010 to April 2014 with fixed prices for allowances and an unlimited number of allowances. Recent revisions to the operation of the scheme from April 2014 provide for successive five-year phases with a final 4 year phase ending in 2043. From April 2014, there will be sales of allowances at differential prices which are intended to encourage energy forecasting, reduction of consumption and trading of allowances. The government will review the effectiveness of the revised scheme in 2016.

Environmental impact assessments

11. Are there any requirements to carry out environmental impact assessments (EIAs) for certain types of projects?

Scope

An environmental statement (ES) must be submitted with an application for planning permission or development consent for certain developments that require an EIA under the Environmental Impact Assessment Regulations (2011 in England or 1999 in Wales) as set out in:

- Schedule 1: developments most likely to have a major environmental impact (for example, crude oil refineries, power stations and motorways) must be subject to EIA.
- Schedule 2: other projects (including, for example, infrastructure) are only subject to EIA if they are likely to have a significant effect on the environment due to factors such as their nature, size or location.

There is an EIA regime specifically for offshore activities. Other permits may be required depending on the type of project, for example, an EP (see Question 5) and Building Regulation approval.

Permits and regulator

The authority determining the application is generally the local authority or the Secretary of State depending on the significance of the development. The authority must consider the ES in determining whether planning permission should be granted. However, it is not obliged to refuse to approve it, even if the effects are adverse.

The relevant authority can require an updated ES when considering an application related to a project that it has previously permitted and where, for example, the original ES is out of date.

Penalties

If a relevant authority grants planning permission or development consent and the ES was not properly considered, the permission or consent risks being legally challenged.

Waste

12. What is the regulatory regime for waste?

Waste management activities are regulated under the EPR (see Questions 4 and 5). The regulator is always the EA or NRW, even when the waste operation is a Part A(2) or Part B installation.

Permits and regulator

The EA or NRW can impose conditions on EPs involving waste activities relating to the operation and management of the relevant site and its restoration at the end of operations. Large landfills, waste incinerators and waste recovery installations are regulated by the IPPC part of the EPR (see Question 5). However, a duty of care and fit and proper person test still applies (see below, Prohibited activities and Operator criteria).

Prohibited activities

All persons involved in activities involving waste are under a duty of care in relation to the waste. It is an offence to:

- Treat, keep or dispose of waste either:
 - without an EP;

- in a manner likely to cause pollution of the environment or harm to human health.

- Fail to comply with conditions of an EP.
- Otherwise breach the duty of care.

Operator criteria

The permit holder must both:

- Be the operator.
- Show that it is a fit and proper person. This involves consideration of the applicant's:
 - criminal record;
 - technical competence;
 - financial resources to comply with the conditions of an EP.

The EA can require financial provision, such as a guarantee or insurance, to ensure that responsibilities under an EP can be met.

Special rules for certain waste

A separate regime for control of wastes classified as hazardous is set out under the Hazardous Waste (England and Wales) Regulations 2005 and Hazardous Waste (Wales) Regulations 2005 (HWR).

Hazardous waste cannot generally be removed from premises unless the location of the premises is notified to the EA/NRW (except where the premises are exempt). There are requirements on all parties involved in the production, transportation and receipt of hazardous waste to complete consignment notes. Recipients of hazardous waste must:

- Provide the EA/NRW with quarterly returns and list consignments received.
- Record the location of the deposited waste.

Unless specifically permitted, hazardous waste cannot be mixed with:

- Other hazardous waste.
- Non-hazardous waste.
- Any other materials.

Hazardous waste must also be properly packaged and labelled.

Failure to comply with the HWR is an offence, subject to fines and/or imprisonment.

Producer responsibility regimes

Various European Directives have provided for specific regimes to deal with waste packaging, end-of-life vehicles,

waste electrical and electronic equipment and waste batteries and accumulators. The directives have been implemented into UK law and provide various obligations including take-back, recovery and recycling of the relevant products when they are disposed of.

Penalties

Most offences under the waste regime are punishable by fine and/or imprisonment. The levels depend on the actual offence and its seriousness. The regulator can also recover the costs of clearing the waste from the offender. (See also Question 2.)

Asbestos

13. What is the regulatory regime for asbestos?

The main instrument regulating asbestos is the Control of Asbestos Regulations 2012 (CAR).

Prohibited activities

With some minor exceptions for asbestos already in premises, the use of asbestos or asbestos-containing materials in building structures is prohibited.

Main obligations

The dutyholder must manage any asbestos present in these buildings. The dutyholder is the owner, occupier and parties with control or with contractual responsibility for maintaining non-domestic premises and the common parts of certain other buildings. If there is more than one dutyholder, their requirements to manage are determined by the nature and extent of their maintenance and repair obligations.

The duty to manage asbestos in premises includes:

- Taking reasonable steps to determine and record the location and conditions of asbestos-containing materials (ACMs), and updating the records.
- Presuming that all materials contain asbestos unless there is strong evidence that they do not.
- Assessing the risk of exposure to ACMs.
- Taking necessary steps to manage risks. Licensed contractors must be used for these purposes.
- Providing information on the location and condition of ACMs to anyone potentially at risk of exposure from asbestos.

Other obligations where employees work with ACMs, or might otherwise be exposed to asbestos include:

- Risk assessment.
- Providing adequate training.
- Notifying works to the Health and Safety Executive (HSE).
- Compliance with exposure limits.
- Monitoring exposure of employees to asbestos.

Waste containing asbestos should be disposed of according to the HWR (see Question 11).

An industry code of practice to cover contamination through asbestos in soil, construction and demolition waste is being developed and is expected to be published for consultation in mid 2014.

Permits and regulator

Those who assess premises for issue of a site clearance certificate for re-occupation must be accredited by an appropriate body.

Penalties

Failure to comply with the duty to manage is punishable by an unlimited fine and/or imprisonment of up to two years.

Contaminated land

14. What is the regulatory regime for contaminated land?

Regulator and legislation

There is an overlap of legislation related to the clean-up of contaminated land between the Environmental Protection Act 1990 and the ED Regulations.

Part IIA of the Environmental Protection Act 1990 aims to ensure that contaminated land identified and remediate where it poses unacceptable levels of risk. It is not an offence under the Part IIA regime to pollute or contaminate land.

The ED Regulations relate to the prevention and remediation of environmental damage, being damage to species, habitats, sites of special scientific interest, surface water or groundwater, and land. The ED Regulations only apply to the most serious cases of environmental damage.

The principal enforcement authority is the relevant LA. However, certain types of sites or offences are regulated by

the EA/NRW. In addition, Natural England (which is an executive non-departmental public body responsible to the Secretary of State for Environment, Food and Rural Affairs) also has enforcement powers.

Investigation and clean-up

Under the Part IIA regime, contaminated land is land that is in such a condition that significant harm is being caused, or there is a significant possibility of such harm being caused to the environment (including human health). Harm is assessed by reference to the land's current use. The mere presence of contaminants on a site does not necessarily mean that it is contaminated land.

Land also qualifies as contaminated if contaminants present on the land are causing or are likely to cause significant water pollution or the significant possibility of such pollution.

LAs must inspect their areas to identify any contaminated land. LAs and the EA/NRW must keep public registers of contaminated land. If an LA or the EA/NRW identifies any contaminated land, it must serve a remediation notice on the appropriate persons requiring them to remediate the contamination, unless those persons are willing to carry out the remediation voluntarily.

An operator must take all practicable steps to prevent environmental damage if that operator causes an imminent threat of damage (ED Regulations). If environmental damage has already occurred, the operator must take all practicable steps to prevent further damage. If the regulator considers that environmental damage has occurred, it can serve a remediation notice on the responsible operator setting out the measures that must be taken.

For damage to sites of special scientific interest (SSSIs), EU species and habitats, and water, steps required to be taken can include:

- Remediation of the resource.
- Other measures which recognise that actual remediation of the resource is not possible or that compensation should be made to account for temporary loss of a resource, complementary remediation and/or compensatory remediation.

For land contamination, remediation requires the removal or control of contaminants so that risks are reduced to below an unacceptable level, and/or to take reasonable measures to remedy harm or pollution that has been caused by a significant contaminant linkage.

If a planning application is made to develop a site with contaminated land, planning authorities can impose conditions in the planning permission requiring remediation to be carried out before the development starts. This is how most contaminated sites are dealt with.

Statutory Guidance for England on dealing with contaminated land and radioactive contaminated land was published by DEFRA in 2012. Statutory Guidance was published by the Welsh Government in the same year in relation to contaminated land in Wales.

Penalties

Failure to comply with a remediation notice without a reasonable excuse is a criminal offence punishable by a fine. The regulator can carry out the remediation itself and recover the costs from the relevant parties. (See also Question 2.)

15. Who is liable for the clean-up of contaminated land? Can this be excluded?

Part IIA regime

Liable party. Under the Part IIA regime, liability for the remediation of contaminated land rests, initially, with those who caused or knowingly permitted the contamination (known as the Class A liability group). To qualify as a knowing permitter, a person must both:

- Be aware of the presence of the contamination.
- Have the ability to prevent or remove it.

Remediation can be required for contamination that existed before the regime came into force.

Owner/occupier liability. If neither of those persons can be found, liability passes to the Class B liability group (that is, owners and/or occupiers of the land regardless of whether they were responsible for the contamination or aware of its existence).

Previous owner/occupier liability. Unless one of the various exclusions applies, previous owners or occupiers who caused contamination remain liable after the sale of the land. However, an owner/occupier who is not a polluter will no longer be liable when they cease ownership or occupation of the site.

Limitation of liability. There are complex rules on the exclusion and allocation of liability. Exclusion of liability cannot be applied if the rules result in no members of the liability group being liable. However, if the relevant parties agreed on allocation of liability between themselves (for

example, if, as part of a property sale, the seller agrees to indemnify the buyer in relation to contamination), the LA or EA/NRW should generally give effect to that agreement.

ED Regulations

Under the ED Regulations, only the responsible operator (that is, the person whose activity caused the environmental damage) can be liable. Remediation can only be required in relation to damage occurring after 1 March 2009. The ED Regulations only apply to operators of economic activities.

16. Can a lender incur liability for contaminated land and is it common for a lender to incur liability? What steps do lenders commonly take to minimise liability?

Lender liability

It is unusual for lenders to incur liability because they usually have little ability to prevent contamination. However, a lender may have primary liability under the contaminated land regime if it:

- Can exercise commercial or contractual pressure over a company.
- Has control of the land in question.
- Is involved in activities causing contamination.

If a lender enforces its security and takes possession of property it may also have liability to remediate under the contaminated land regime as an owner or a knowing permitter (see Question 14, Part IIA regime).

Minimising liability

Lenders can minimise liability by not seeking control over borrowers for environmental issues. However, there are several indirect risks to which lenders may be exposed. For example, borrowers may be unable to meet their loan repayments because they have incurred significant liabilities or losses as a result of environmental problems at the property. Any contamination may also adversely affect the value of the land over which the lender has taken security.

If a lender appoints a receiver when a borrower defaults, the receiver may incur environmental liabilities. A lender is often required to give the receiver an indemnity against these liabilities.

17. Can an individual bring legal action against a polluter, owner or occupier?

An individual landowner may have a civil claim for nuisance against neighbouring landowners who have caused contamination where the contamination has migrated onto the individual's land. They may also bring a private criminal prosecution for statutory nuisance.

Environmental liability and asset/share transfers

18. In what circumstances can a buyer inherit pre-acquisition environmental liability in an asset sale/the sale of a company (share sale)?

Asset sale

When acquiring assets, any pre-acquisition liabilities associated with the assets generally remain with the seller.

A buyer risks:

- Incurring liability under the contaminated land regime as either:
 - a knowing permitter;
 - the owner of the land (see Question 15, Part IIA regime).
- A civil claim if the contamination migrates onto nearby land (see Question 17).

When the buyer is proposing to buy a business it also needs to consider whether:

- The business has all the necessary environmental permits to operate.
- The permits currently held by the seller are transferable to the buyer.
- The seller has complied with all applicable environmental laws.

While the buyer is not liable for pre-acquisition breaches of law or permits, it needs to know if there are any issues it must address to continue the business lawfully after the sale (for example, any necessary upgrades to plant or equipment).

Liabilities in asset acquisitions are often structured in the same way as in a share acquisition, so a buyer may agree contractually to assume the seller's pre-acquisition liabilities.

Share sale

In principle, when acquiring a company's shares, the buyer also acquires any liabilities incurred by the target, as liabilities remain with the target after the sale.

This is the case whether the liabilities:

- Exist before the acquisition.
- Arise after the acquisition but relate to acts, omissions or circumstances before the acquisition.

A buyer is concerned primarily about the risk of the target bringing with it liability for:

- The target's compliance with environmental laws and permits.
- Contamination on the target's current properties and on any properties it formerly owned, used or occupied.

19. In what circumstances can a seller retain environmental liability after an asset sale/a share sale?

Asset sale

A seller generally remains liable for any pre-disposal liabilities relating to a breach of environmental law or an environmental permit. This includes any contamination caused, or knowingly permitted, by the seller before the asset disposal. However, a buyer can agree to assume these liabilities contractually.

In addition, if certain criteria are met in the context of a sale of contaminated land, the seller can claim that the land was "sold with information" and seek to qualify for a liability exclusion test, found in statutory guidance to the Part IIA regime (see Questions 14 and 15).

Share sale

Liabilities incurred by the target before the sale (or after the sale but relating to acts or omissions occurring before the sale) remain with the target (see Question 18, Share sale). Therefore, the seller should not be at risk of retaining any environmental liabilities after the sale. There is a small risk that the seller could incur liabilities after acquisition if the seller, during its ownership of the target's shares, had sufficiently direct involvement in the target's activities that the corporate veil can be lifted, exposing the seller to potential liability as a shareholder.

20. Does a seller have to disclose environmental information to the buyer in an asset sale/a share sale?

Asset sale

A seller of assets or shares is generally not required by law to disclose environmental issues to a buyer, and the principle of "buyer beware" applies. However, a seller can be liable to the buyer if it makes a misrepresentation or misleads the buyer through its conduct.

A buyer generally requires a seller to give environmental warranties concerning the environmental condition of the business and its assets, to encourage the seller to disclose environmental information. Unless the seller makes a full disclosure of all relevant environmental information to the buyer, the seller is potentially liable to pay damages to the buyer if the warranties prove to be incorrect and the buyer suffers loss.

Share sale

See above, Asset sale.

More information is generally disclosed in a share sale, as the environmental warranties may be more extensive and the liabilities move with the target.

21. Is environmental due diligence common in an asset sale/a share sale?

It is common for environmental due diligence to be undertaken in commercial transactions. However, its extent or scope depends on the:

- Nature of the target's activities or the business or asset to be acquired.
- The parties' attitudes to and understanding of environmental risk and any time constraints for the transaction meaning that extensive investigations are not possible.
- Nature of the sale (for example, whether the seller has produced a seller's due diligence pack and/or if the sale is being run as a competitive auction).

Scope

The areas usually covered by environmental due diligence include any:

- Fines, penalties, lawsuits, claims, notifications or complaints made or threatened (either on behalf of, or against, the target).

- Circumstances existing that may give rise to a breach of environmental law in future.
- Historic environmental reports, surveys or audits (including those relating to the presence of asbestos).
- Spills, leakages or emissions of any hazardous substances.
- Environmental permits or consents required to operate the business or occupy a site.
- Environmental obligations contained in environmental agreements, such as remediation obligations or indemnities.

Due diligence on carbon emissions and other climate change-related issues (such as energy use and sustainability), and compliance with regulations such as the CRC Energy Efficiency Scheme, REACH (registration, evaluation, authorisation and restriction of chemicals) and WEEE, is increasingly being undertaken.

Types of assessment

Environmental due diligence can take the following form:

- A desktop environmental assessment (see Question 22).
- Pre-contract enquiries of the seller and reviewing information contained in a data room.
- Appointing environmental consultants to carry out interviews with management and in particular with those responsible for environmental management (occasionally this may also be undertaken by means of a questionnaire set by the consultant).
- Detailed environmental assessments, including compliance reviews and potential soil and groundwater investigations.

Environmental consultants

Sometimes sellers commission their own environmental reports in advance of the transaction and provide the buyer with copies of these, often to discourage buyers from insisting on warranties or indemnities. In these circumstances buyers generally seek a letter of reliance or a collateral warranty from the seller's environmental consultants so that the buyer can rely on the reports. However, buyers often engage their own environmental consultants to assist in identifying material environmental risks, among other reasons, because the scope of the seller's consultant is unlikely to meet all of the buyer's requirements.

When engaging environmental consultants, negotiating their terms of appointment usually focuses on the:

- Scope of the review.
- Financial and time limits of the consultant's liability.
- Extent of their professional indemnity insurance cover.
- Ability to pass on contractual rights to financiers or future purchasers.

22. Are environmental warranties and indemnities usually given and what issues do they usually cover in an asset sale/a share sale?

Whether or not sellers provide environmental warranties and/or indemnities to buyers in commercial transactions depends on a number of factors, such as:

- The nature of the target's business and the likelihood of significant environmental impacts.
- Whether significant environmental issues have been identified during due diligence.
- The parties' attitudes to the allocation of environmental risk.
- Whether it is a competitive auction or a private sale.
- The bargaining strength of each party.

Asset sale

A seller usually gives the following types of environmental warranties in an asset sale:

- The business has obtained all environmental permits necessary to operate on the date on which the business is sold.
- The business has complied with applicable environmental laws and permits.
- The business is not the subject of any environmental proceedings, claims, investigations or complaints.
- There is no contamination or pollution present on any of the business' assets or properties.
- All environmental reports relating to the business or the properties have been disclosed.

Sellers usually seek to limit as many warranties as possible by reference to seller awareness and materiality.

If the seller agrees to give an environmental indemnity, it is usually limited to liabilities associated with any contamination present on the target's properties before the sale and generally to specific issues identified during the due diligence process. The indemnity usually covers costs incurred as a result of regulatory action and third party civil claims and may also cover the costs of voluntary clean-up.

Share sale

Similar warranties and indemnities are usually agreed in a share sale. As the target being transferred retains all liabilities and potential liabilities relating to historic operations of the business, additional warranties and indemnities may be obtained.

23. Are there usually limits on environmental warranties and indemnities?

Environmental warranties are nearly always limited by time and subject to a financial cap. These are subject to negotiation but are often similar to the position on other warranties. The cap often includes all warranty claims and is linked to a percentage of the purchase price. Time limits and caps for environmental indemnities vary according to the scope of the indemnity and the environmental losses it is intended to cover.

An environmental indemnity is usually also subject to trigger events that must occur before a buyer can make a claim. Limitations on liability due to events after completion are usually included.

Reporting and auditing

24. Do regulators keep public registers of environmental information? What is the procedure for a third party to search those registers?

Public registers

The EA/NRW and LAs must keep public registers of environmental information (that is, details of permits issued under the EPR and of contaminated land). These registers are available for inspection by any member of the public.

Some companies specialise in investigating these registers, as well as other publicly available information, such as historical maps. These investigations are called desktop assessments and are relatively inexpensive. If potential concerns are revealed, more detailed environmental assessments can be undertaken, which contain a more thorough analysis of the potential for liabilities to arise.

Third party procedures

The public can request environmental information from public authorities and bodies carrying out a public function (such as utility companies), subject to various exceptions, including commercial confidentiality (Environmental Information Regulations 2004). As a result, LAs are under increasing pressure to make environmental information available whether or not contained on formal registers.

25. Do companies have to carry out environmental auditing? Do companies have to report information to the regulators and the public about environmental performance?

Environmental auditing

Environmental auditing is not compulsory. However, many companies carry out an environmental audit (either internally or through external consultants), to satisfy demands of shareholders, customers and other stakeholders.

Reporting requirements

Environmental permits frequently contain a reporting condition. Reporting can also be required under contractual relationships or be necessary in the light of increasing trends for corporate social responsibility.

Since October 2007, companies (except for some small companies) must prepare a business review in their annual report with information on environmental matters, including the impact of the company's business on the environment (Companies Act 2006). For financial years ending on or after 30 September 2013:

The business review is replaced with a new standalone strategic report.

Quoted companies have new obligations regarding GHG emissions in their directors' report.

In principle, aside from any permit requirements, reports of intrusive soil investigations do not have to be reported to the authorities. However, if they identify environmental damage (or an imminent risk of such damage), relevant information may have to be provided to the authorities (see Question 26).

26. Do companies have to report information to the regulators and the public about environmental incidents (such as water pollution and soil contamination)?

Operators must (sections 13, 14 and 32, ED Regulations):

- Notify the relevant regulator of imminent threats of environmental damage.
- Notify the relevant regulator of an activity that has caused environmental damage.
- Provide information to regulators on request, to enable them to perform their duties.

In addition, there is an obligation to notify dangerous incidents. The Health and Safety Executive must be notified of an incident if it caused, or could have caused, death, major injury or disease (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (1995)) (RIDDOR).

Early reporting and full co-operation with the relevant authorities may result in a lower enforcement response.

27. What access powers do environmental regulators have to access a company?

The EA has wide powers to carry out investigations, including the power to:

- Require information to be provided.
- Gain access to premises.
- Obtain samples.
- Interview site employees.
- Carry out works in an emergency.

However, these powers are subject to certain restrictions. For example, the EA/NRW must notify the operator in advance before it can exercise its powers of entry to an operator's site.

Information provided to the EA/NRW under compulsion cannot generally be used to prosecute any offence.

Environmental insurance

28. What types of insurance cover are available for environmental damage or liability and what risks are usually covered? How easy is it to obtain environmental insurance and is it common in practice?

Types of insurance and risk

General public liability policies usually provide minimal cover for liabilities arising from environmental harm, except for sudden, unintended and accidental damage. Therefore, companies are increasingly applying for specialist environmental insurance to cover both known and unknown contamination and other operational environmental liabilities.

The main types of cover currently available include:

- **Pollution liability insurance (PLI).** PLI can protect against losses associated with known and unknown pollution including historic contamination. It usually covers claims by third parties for property damage (on-site and off-site) and clean-up costs where clean-up is required by environmental authorities. Cover for operational pollution risks (such as discharges) and investigation costs is also possible. Policies can be extended to cover risks under warranties and indemnities in transactions (see Question 21). There has been increased interest in this type of insurance, partly due to the *Bartoline Ltd v Royal & Sun Alliance Insurance plc* and another [2007] All ER (D) 59 case (*Bartoline*), where the courts ruled that the remediation costs incurred by the regulator and claimed from a policyholder were not damages for the purposes of the policyholder's general public liability insurance and were therefore not recoverable from the insurer.
- **Remediation cost cap insurance (RCCI).** RCCI can be obtained to cover cost overruns in carrying out remediation of contamination.
- **Contractors' pollution liability insurance (CPLI).** CPLI can be taken out to cover the risk of pollution being caused during construction or remediation projects. This is not commonly used.
- **Professional indemnity insurance (PII).** PII is often taken out by environmental professionals when

providing advice on environmental matters (see Question 21).

Insurance is being used, not only for specific sites, but also increasingly to reduce risks in:

- Corporate merger and acquisition transactions.
- LA housing land transfers.
- Public private partnership projects.
- Outsourcing contracts.

Obtaining insurance

Whether it is possible to obtain environmental insurance for contamination risks depends on a number of factors, including:

- Former and current land use and operations.
- The likelihood of remediation being required.
- Other risks, such as the probability of pollution or further contamination occurring.

If cover is available, these factors also influence the:

- Level of available cover.
- Excesses.
- Limits on claims.

Types and extent of environmental damage covered.

There is a stable and increasingly well-known community of specialist brokers and underwriters dealing with environmental insurance, although it is not often used to support large commercial transactions. Environmental warranties and indemnities are likely to remain the principal risk allocation tools for the foreseeable future.

Environmental tax

29. What are the main environmental taxes in your jurisdiction?

The principal environmental taxes and tax breaks in the UK are:

- **Climate change levy.** This is a tax on the use, by industry, commerce, agriculture and the public sector, of energy including:
 - electricity;
 - coal;
 - coke and gas.

It is aimed at reducing greenhouse gas emissions. Energy suppliers collect the levy through their customers' electricity

bills. Different rates of levy apply depending on the energy source. As certain high energy users (such as the steel, cement, car, glass and chemicals industries) could incur significant costs, operators can enter into agreements (climate change agreements) setting out targets for cutting carbon emissions from their operations. If these are met, the operator is entitled to up to 90% discount on its climate change levy.

An additional form of climate change levy (carbon price support) was introduced in April 2013. Electricity generators using gas, solid fuels and liquid petroleum gas pay this levy. This effectively tops up carbon prices payable under the EU Emissions Trading System to create a Carbon Price Floor.

- **Aggregates levy.** This tax is currently payable on the commercial exploitation of primary sand, gravel and rock (with some exceptions). Operators currently pay a tax of GB£2 per tonne of sand, gravel or rock extracted. However, the legitimacy of the levy was the subject of a recent European General Court judgment (*British Aggregates Association v European Commission Case T-210/02 RENV*) that annulled an earlier European Commission finding that the levy did not fall foul of state aid rules. The European Commission has decided not to appeal the judgment and it will now need to make a reassessment of whether the levy contains any state aid. The levy is also currently under challenge in the UK Court of Appeal, although in the meantime, its legal basis was confirmed by a High Court Order made in 2002. Accordingly, Her Majesty's Revenue and Customs (HMRC) has advised it will continue to administer and collect the tax as normal.
- **Landfill tax.** This tax aims to encourage businesses to use alternative forms of waste management and produce less waste. It is payable by businesses and local authorities when they dispose of waste at a landfill in addition to landfill fees. It is charged at two different rates per tonne:
 - a standard rate of GB£72
 - GB£2.50 for inert waste.

The government intends to increase the standard rate up to GB£80 per tonne in 2014

Activities such as dredging from waterways are exempt from the tax subject to certain conditions.

In addition, there are the following concessions:

- Tax relief for remediation of contaminated land. In certain circumstances businesses subject to

corporation tax can claim tax relief from the tax of 150% of the qualifying clean-up cost of contaminated land and can surrender losses as a land remediation tax credit (to a value of up to 16% of those losses).

- Enhanced first year allowances can be claimed in relation to energy saving products and water efficient technologies. This means that the full cost of certain energy-saving and water efficient plant, machinery, vehicles and infrastructure can be claimed as a tax allowance by businesses against taxable profits in the year that the cost is incurred.

Reform

30. What proposals are there for significant reform (changes) of environmental law in your jurisdiction?

Letting restriction

By 1 April 2018, under the Energy Act 2011, the government is preparing to introduce a restriction on lettings of commercial property which are assessed as below a certain level of energy performance. The details are yet to be finalised but it is likely that a landlord's willingness to conclude a Green Deal (see Question 8), in relation to the property, will prevent the restriction being imposed, even if the property does not qualify for a Green Deal.

Civil sanctions

The government intends to restrict the imposition of civil sanctions. The government is also considering legislation giving the Environment Agency powers to impose civil sanctions for environmental permitting offences.

Sentencing for environmental crimes

The Independent Sentencing Council is consulting on new guidelines for sentencing those found guilty of environmental crimes. The new guidance is aimed at improving the inconsistency of sentencing and ensuring that sentences match the seriousness of the offence, the harm caused, the culpability and will seek to remove any gain realised through commission of the offence. It is likely that the guidelines will lead to higher sentences in many cases. In particular, 'starting points' for sentences will distinguish between large companies (turnover over £25.9m), medium companies (£6.5m to £25.9m) and small companies (under £6.5m).

EPR

In June 2013, the government introduced a Water Bill which provides for expansion of the EPR to cover flood defences, water abstraction and impoundment licensing.

Cutting environmental regulation red tape

DEFRA has published a list of areas in environmental regulation that will be scrapped or "improved" to cut out on duplication or unnecessary cost to business. The amendments to the regime are expected to increase clarity, reduce duplication, and remove obsolete regulation. However, there may be areas (for example local air pollution) where substantive environmental standards are reduced.

The major areas covered are:

- Waste.
- Environmental permitting.
- Chemicals.
- Air quality and industrial emissions.
- Carbon reduction.
- Noise and nuisance.
- Biodiversity, wildlife management, landscape, countryside and recreation.

Further proposals were made in August 2013 in the following areas:

- Water quality.
- Flood management.
- Inland waterways.
- Marine conservation and fisheries.

This process is ongoing.

Electricity market reform

The government is pursuing a programme of electricity reform to attract investment to replace current generating capacity, to upgrade the grid and to cope with rising demand for electricity. From an environmental perspective, there are a number of elements to this programme. These include economic signals in the form of a "carbon price floor" which was implemented from 1 April 2013. A new energy bill contains proposals for the introduction of feed-in tariffs based on contracts for difference from 2014 to incentivise electricity generation from low-emission sources alongside an emissions performance standard for new fossil fuel power stations.

Air pollution

DEFRA is currently consulting on a comprehensive review of the Clean Air Act which seeks to air pollution from smoke from trade and industrial premises, public consultations will be held in 2013 and 2014.

The regulatory authorities

Department for Environment, Food and Rural Affairs (DEFRA)

Main activities. DEFRA has responsibility for the environment as well as food and farming and rural matters.

W www.defra.gov.uk

Department of Energy and Climate Change (DECC)

Main activities. DECC has responsibility for energy policy and tackling climate change.

W www.decc.gov.uk

Environment Agency (EA)

Main activities. The EA is an executive non-departmental body accountable to DEFRA and the National Assembly for Wales. The EA's main aims are protecting and improving the environment, and promoting sustainable development.

W www.environment-agency.gov.uk

National Resources Wales (NRW)

Main activities. NRW is a statutory body accountable to the Welsh government and the National Assembly for Wales which became operational on 1 April 2013. It has a broader remit than the EA, its main objective being to ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used.

W www.naturalresourceswales.gov.uk

Local authorities

Main activities. Local authorities are responsible for the enforcement of more localised environmental offences, waste collection, and monitoring of noise, air, water and contaminated land.

W

www.direct.gov.uk/en/DI1/Directories/Localcouncils/AToZOfLocalCouncils/DG_A-Z_LG

Online resources

W www.legislation.gov.uk/

Description. This website is managed by The National Archives on behalf of HM Government and contains the original (as enacted) and revised versions of UK legislation.

Appendix: Author details

Authors



Michael Coxall
Senior PSL

Qualified. England and Wales, 1997

Areas of practice. Environment; health and safety; planning; energy regulation.

T: + 44 207 006 4315
E: michael.coxall@cliffordchance.com



Elizabeth Hardacre
Barrister and Solicitor

Qualified. New Zealand, 2008

Areas of practice. Environment; planning; energy and climate change; health and safety.

T: + 44 207 006 1356
E: elizabeth.hardacre@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

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