

Asiantaeth yr Amgylchedd Environment Agency  
Llwyn Brain Llwyn Brain  
Ffordd Penlan Ffordd Penlan  
Parc Menai Parc Menai  
Bangor Bangor  
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ASiantaeth YR  
AMGYLCHEDD  
ENVIRONMENT  
AGENCY



OUTGOING



OTHER

ENVIRONMENTAL PROTECTION ACT 1990 - PART II, Section 37

## NOTICE OF MODIFICATION OF WASTE MANAGEMENT LICENCE

Licence Holder: J E, M E, & A J Potter  
c/o Potters Yard,  
Severn Road,  
Welshpool,  
Montgomeryshire,  
SY21 7AZ

Licence Number: 15/94

(Licence ref. no. NOW-611 -L)

WHEREAS on 24th March 1994 you were granted a Waste Disposal Licence under Section 5 of the Control of Pollution Act 1974 (number 15/94) by Montgomeryshire District COUNCIL relating to waste transfer station and scrapyards at Potters Yard, Severn Road, Welshpool, Montgomeryshire, SY21 7AZ.

NOTICE is HEREBY GIVEN that the Environment Agency in exercise of its powers under Section 37 (1)(a) of the Environmental Protection Act 1990 modifies waste management licence No. 15/94 (Ref.No.NOW-611-L) as follows:-

See attached schedule:

Such modification shall take effect from 7th January 1998 from 0:00hours

Signed.....*C. Walters*.....  
C.WALTERS  
TEAM LEADER WASTE LICENSING  
Welsh Region

Dated the 30th December 1997

*N.B.- The person served with this notice may under Section 43 of the Act appeal against the Agency's decision to the Secretary of State within six months of the date of the decision or such longer period as the Secretary of state may allow. (See notes overleaf)*



THE ENVIRONMENTAL PROTECTION ACT 1990 PROVIDES AS FOLLOWS:-

*Appeals to the Secretary of State from decisions with respect to licences.*

- 43.-(1) Where, except in pursuance of a direction given by the Secretary of State,-
- an application for a licence or a modification of the conditions of a licence is rejected;
  - a licence is granted subject to conditions;
  - the conditions of a licence are modified;
  - a licence is suspended;
  - a licence is revoked under Section 38 or 42 above;
  - an application to surrender a licence is rejected; or
  - an application for the transfer of a licence is rejected;

then, except in the case of an application for a transfer, the applicant for the licence or, as the case may be, the holder or former holder of it may appeal from the decision to the Secretary of State and, in the case of an application for a transfer, the proposed transferee may do so.

- (2) Where an appeal is made to the Secretary of State-
- the Secretary of State may refer any matter involved in the appeal to a person appointed by him for the purpose;
  - the Secretary of State may, instead of determining the appeal himself, direct that the appeal or any matter involved in it shall be determined by a person appointed by him for the purpose (who shall have the same powers as the Secretary of State);
  - if the party to the appeal so requests, or the Secretary of State so decides, the appeal shall be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held or held to any extent in private).
- (3) Where, on such an appeal, the Secretary of State or other person determining the appeal determines that the decision of the authority shall be altered it shall be the duty of the authority to give effect to the determination.
- (4) While an appeal is pending in a case falling within subsection (1)(c) or (e) above, the decision in question shall, subject to subsection (6) below, be ineffective; and if the appeal is dismissed or withdrawn the decision shall become effective from the end of the day on which the appeal is dismissed or withdrawn.
- (5) Where an appeal is made in a case falling within subsection (1)(d) above, the bringing of the appeal shall have no effect on the decision in question.
- (6) Subsection (4) above shall not apply to a decision modifying the conditions of a licence under Section 37 above or revoking a licence under Section 38 or 42 above in the case of which the notice effecting the modification or revocation includes a statement that in the opinion of the authority it is necessary for the purpose of preventing, or where that is not practicable, minimising pollution of the environment or harm to human health that that subsection should not apply.
- (7) Where the decision under appeal is one falling within subsection (6) above or is a decision to suspend a licence, if, on the application of the holder or former holder of the licence, the Secretary of State or other person determining the appeal determines that the authority acted unreasonably in excluding the application of subsection (4) above or as the case may be, in suspending the licence, then-
- If the appeal is still pending at the end of the day on which the determination is made, subsection (4) above shall apply to the decision from the end of that day; and
  - the holder or former holder of the licence shall be entitled to recover compensation from the authority in respect of any loss suffered by him in consequence of the exclusion of the application of that subsection or the suspension of the licence;
- and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be determined by arbitration or in Scotland by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties.
- (8) Provision may be made by the Secretary of State by regulations with respect to appeals under this section and in particular-
- as to the period within which and the manner in which appeals are to be brought; and
  - as to the manner in which appeals are to be considered.

THE WASTE MANAGEMENT LICENSING REGULATIONS 1994 PROVIDE AS FOLLOWS:-

**Notice of Appeal**

6.- (1) A person who wishes to appeal to the Secretary of State under Section 43 or 66(5) of the 1990 Act (appeals to the Secretary of State from decisions with respect to waste management licences or from determinations that information is not commercially confidential) shall do so by notice in writing.

- (2) The notice shall be accompanied by -
- a statement of the grounds of appeal
  - where the appeal relates to an application for a waste management licence or for the modification, surrender or transfer of a waste management licence, a copy of the appellant's application and any supporting documents;
  - where the appeal relates to a determination under Section 66(2) or (4) of the 1990 Act that information is not commercially confidential, the information in question;
  - where the appeal relates to an existing waste management licence (including a waste management licence which has been suspended or revoked), a copy of that waste management licence;
  - a copy of any correspondence relevant to the appeal;
  - a copy of any other document relevant to the appeal including, in particular, any relevant consent, determination, notice, planning permission, established use certificate or certificate of lawful use or development; and
  - a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations

(3) The appellant shall serve a copy of his notice of appeal on the waste regulation authority together with copies of the documents mentioned in paragraph (2) above.

(4) If the appellant wishes to withdraw an appeal, he shall do so by notifying the Secretary of State in writing and shall send a copy of the notification to the waste regulation authority.

**Time limit for making an appeal**

- 7.- (1) subject to paragraph (2) below, notice of appeal shall be given-
- in the case of an appeal under Section 43 of the 1990 Act, before the expiry of the period of 6 months beginning with-
    - the date of the decision which is the subject of the appeal; or
    - the date on which the waste regulation authority is deemed by section 36(9), 37(6), 39(10) or 40(6) of the 1990 Act to have rejected the application;
  - in the case of an appeal under Section 66(5) of the 1990 Act, before the expiry of the period of 21 days beginning with the date on which the determination which is the subject of the appeal is notified to the person concerned.

(2) The Secretary of State may in relation to an appeal under Section 43 of the 1990 Act at any time allow notice of appeal to be given after the expiry of the period mentioned in paragraph (1)(a) above.

**Reports of hearings**

8.- The person hearing an appeal under section 43(2)(c) of the 1990 Act shall, unless he has been appointed to determine the appeal under Section 43(2)(b) of that Act, make a written report to the Secretary of State which shall include his conclusions and recommendations or his reasons for not making any recommendations.

**Notification of determination**

9.-(1) The Secretary of State or other person determining an appeal shall notify the appellant in writing of his decision and of his reasons.

(2) If the Secretary of State determines an appeal after a hearing under Section 43(2)(c) of the 1990 Act, he shall provide the appellant with a copy of any report made to him under regulation 8.

(3) The Secretary of State or other person determining the appeal shall, at the same time as notifying the appellant of his decision, send the waste regulation authority a copy of any document sent to the appellant under this regulation.



Date: 30th December 1997

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## SCHEDULE

The following conditions shall be modified:

### Licence Condition

#### *Original conditions read:*

- A.23 **SPECIAL WASTE** - shall refer to waste that is subject to Section 17 of the Control of Pollution Act 1974 and Regulations made thereunder and any subsequent legislation which may repeal this.
- H.19 No special waste shall be accepted at the scrapyards area of the site except battery acid which shall not be drained from battery containers, petrol, brake and hydraulic fluids arising from scrap vehicles accepted at the site.

#### *Modification shall read:*

- A.23 **SPECIAL WASTE** - shall refer to waste as defined by regulations in force under Section 62 of the Environmental Protection Act 1990.
- H.19 No special waste shall be accepted at the scrapyards area of the site except battery acid which shall not be drained from battery containers, petrol, brake, hydraulic fluids and engine, gearbox or axle oils arising from scrap vehicles accepted at the site.

Team Leader Waste Licensing C WALTERS Signed.....*Clare Walters*.....  
Potters Yard, MRS.

