

27 OCTOBER 2021

PC7-21 | ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2016

Summary

The Department for the Environment, Food and Rural Affairs (DEFRA) has recently launched a consultation into amending the Environmental Permitting (England and Wales) 2016 Regulations. Effectively the consultation as it affects those local (parish and town) councils which are burial authorities, has specific regard to amending the regulations around activities which affect groundwater. In essence this consultation will affect all burial authorities and existing cemeteries / burial grounds. Most significantly, if the current proposals are implemented it could reduce the remaining burial capacity of cemeteries and burial grounds by almost 50%.

The government's stated objective with this consultation is to update the Environmental Permitting Regulations to improve the way in which groundwater activities, and some related surface water discharge activities, are regulated. The main consultation document can be downloaded [here](#) . The consultation closes at DEFRA on 22 December 2021.

Context

The proposals include an exemption from the permitting scheme for small cemeteries i.e. those with fewer than 100 burials per year. However, to qualify as an 'exempt facility' a cemetery will have to comply with the General Binding Rules (GBRs), one of which is that the minimum size of a grave plot will be no smaller than 5 square metres.

DEFRA also proposes to prohibit burials within 10m of a field drain or dry ditch, or within 30m of a spring or watercourse, or within 50m of certain protected nature sites, or within 250m of any well, spring or borehole used for domestic consumption or food production purposes.

DEFRA also makes certain proposals regarding ground-source heat pumps which can be seen here: [Annex C Draft exemption conditions for closed loop ground source heat pump activities in low environmental risk settings.pdf \(defra.gov.uk\)](#) . The proposals if implemented will restrict the installation of such pumps within certain distances of watercourses, springs, and protected nature sites. These

restrictions may impede the drive towards 'green energy', including community-based solutions.

In one local council cemetery NALC has been informed of, a standard burial plot is 4' x 8' i.e. 32sq feet / 3.0 square metres. To increase the size of a burial plot to 5 square metres would mean increasing the size of a burial plot by two-thirds i.e. to 6' x 9' (see GBR 8 in [annex B](#) to the consultation document).

Additionally, the proposed General Binding Rules appear to preclude the use of 'bricked' graves where it is not possible to achieve a minimum depth of soil of at least 1 metre above any part of the coffin (Part 1 of Schedule 2 of the Local Authorities Cemetery Order 1977 contains specific provisions for the use of walled or bricked graves where the minimum depth of soil cannot be achieved).

There are also potential implications of amending these regulations for anyone who has or is planning to have a ground-source heat pump and/or a septic tank. There are also implications for communities with elderly sewage systems which have to carry storm as well as foul water.

Respondents from the local council sector are advised strongly to read Annex B to the main consultation document linked above which contains the detail of draft exemption conditions for small-scale cemetery developments in low-environmental risk settings with possible future effect. See [here](#) Annex A a glossary of terms relevant to this consultation.

NALC's current policy positions

NALC will be arguing very strongly to DEFRA that it must be very careful to listen to the evidence presented by local councils and burial authorities as to why these proposals could reduce the remaining burial capacity of cemeteries and burial grounds by almost 50% - and should do all in its power to ensure maximum possible capacity for cemeteries and burial grounds managed by local councils - whilst still improving the way that ground water activities where essential, are regulated.

We will also be arguing that some of the proposals which Annex C refers to regarding ground-source heat pumps may impede the drive towards 'green energy', including community-based solutions.

Consultation Questions

The main consultation questions NALC will be responding to in this consultation are as below and NALC seeks the views of county associations and member councils in response to these questions to help inform its own submission to DEFRA:

Q3a: To what extent do you agree with the proposal to make General Binding Rules available for small-scale cemetery developments in low-environmental risk settings? If this question is not applicable to you, please select N/A.

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree
- f. N/A

Please provide details to explain your answer.

Q3b: To what extent do you agree that the draft exemption conditions for small-scale cemetery developments in low-environmental risk settings in Annex B are appropriate?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Please provide details to explain your answer.

Q3c: To what extent do you agree with the proposal to make General Binding Rules available for closed loop ground source heat pump activities in low-environmental risk settings?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Please provide details to explain your answer.

Q3d: To what extent do you agree that the draft exemption conditions for closed loop ground source heat pump activities in low-environmental risk settings in Annex C are appropriate?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Please provide details to explain your answer.

Q3e: To what extent do you agree that the draft exemption conditions for closed loop ground source heat pump activities in low-environmental risk settings in Annex C should apply to all sizes of such activities?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Please provide details to explain your answer.

Q3f: If you think that the draft exemption conditions for closed-loop ground source heat pump activities in low-environmental risk settings in Annex C should include a size threshold (energy in kWh per year), what size limit do you think is reasonable?

Q6: To what extent do you agree with the proposal to add these new rules to the General Binding Rules for Small Sewage Discharges to ensure that multiple discharges should not be located in close proximity to each other?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Please provide details to explain your answer.

Your evidence

Please email your responses to this consultation to chris.borg@nalc.gov.uk by 17.00 on Friday 26 November, 2021. County associations are asked to forward this briefing onto all member councils in their area.

© NALC 2021