
Status: This is the original version (as it was originally enacted).

SCHEDULE 1

(introduced by section 1(5))

REGULATORS FOR THE PURPOSES OF PART 1

Accountant in Bankruptcy
Food Standards Agency
Healthcare Improvement Scotland
Local authorities
Scottish Charity Regulator
Scottish Environment Protection Agency
Scottish Fire and Rescue Service
Scottish Housing Regulator
Scottish Natural Heritage
Social Care and Social Work Improvement Scotland
VisitScotland

SCHEDULE 2

(introduced by section 18)

PARTICULAR PURPOSES FOR WHICH PROVISION MAY BE MADE UNDER SECTION 18

PART 1

LIST OF PURPOSES

Environmental activities

- 1 (1) Further defining environmental activities.
- (2) Modifying the definition of any of those activities.
- (3) Specifying other activities as environmental activities.

Emissions

- 2 (1) Establishing standards, objectives or requirements in relation to emissions.
- (2) In relation to emissions, authorising the making of plans for—
 - (a) the setting of overall limits,
 - (b) the allocation of quotas, or
 - (c) the progressive improvement of standards or objectives.
- (3) Authorising the making of schemes for the trading or other transfer of quotas so allocated.

Regulators

- 3 (1) Determining the authorities (whether SEPA or any other public or local authority or the Scottish Ministers) by whom functions conferred by the regulations for or in

connection with regulating regulated activities are to be exercisable (such authorities being referred to in this schedule as “regulators”).

- (2) Specifying any other purposes for which any such functions are to be exercisable.
- (3) Enabling the Scottish Ministers to give directions (whether general or specific) with which regulators are to comply, or guidance to which regulators are to have regard, in exercising functions under the regulations, including—
 - (a) directions providing for any functions exercisable by one regulator to be exercisable instead by another,
 - (b) directions given for the purpose of the implementation of any obligations of the United Kingdom under the EU Treaties or under any international obligations to which the United Kingdom is a party,
 - (c) directions relating to the exercise of any function in a particular case or description of case,
 - (d) directions providing for any matter to which the directions relate to be determined, in such manner (if any) as the directions may specify, by a person other than the Scottish Ministers.

Regulation of activities

- 4 (1) Prohibiting persons from carrying on, or from causing or permitting others to carry on, any regulated activity.
- (2) Prohibiting persons from carrying on any regulated activity except so far as it is—
 - (a) authorised by or under the regulations, and
 - (b) carried on in accordance with the regulations.
- (3) Enabling the carrying on of regulated activities to be authorised by providing that they are to be carried on—
 - (a) in accordance with a permit granted by a regulator under the regulations (a “permit”),
 - (b) subject to a requirement to register the carrying on of the activity with a regulator (“registration”),
 - (c) subject to a requirement to notify a regulator that the activity is being, or is proposed to be, carried on (“notification”),
 - (d) subject to compliance with rules specified in or made under the regulations (“general binding rules”).
- (4) Enabling the carrying on of regulated activities to be authorised by means of a permit, registration or notification whether or not the carrying on of those activities is also subject to general binding rules.
- (5) Specifying a procedure under which the regulators may determine general binding rules.
- (6) Treating as authorised the carrying on of regulated activities which are subject to general binding rules.
- (7) Specifying the subsistence of an authorisation to carry on regulated activities which are subject to general binding rules.

Permits

- 5 (1) Prescribing the form and content of applications for permits.
- (2) Regulating the procedure to be followed in connection with—
 - (a) applications for permits,
 - (b) the determination of such applications, and
 - (c) the grant of permits.
- 6 (1) Prescribing the form and content of permits.
- (2) Authorising permits to be granted subject to conditions imposed by regulators.
- (3) Securing that permits have effect subject to specified conditions.
- (4) Requiring persons carrying on regulated activities authorised by way of a permit to submit to regulators, in respect of specified periods and at specified intervals, such information as may be specified relating to the carrying on of the activities and compliance with any conditions subject to which the permit was granted.
- 7 (1) Requiring permits, or the conditions to which permits are subject, to be reviewed by regulators (whether periodically or in specified circumstances).
- (2) Authorising or requiring the variation of permits or such conditions by regulators (whether on applications made by holders of permits or otherwise).
- (3) Regulating the making of changes in the carrying on of the activities to which permits relate.
- 8 (1) Regulating the transfer and surrender of permits.
- (2) Authorising the suspension of permits by regulators.
- (3) Authorising the revocation of permits by regulators.
- (4) Authorising the imposition by regulators of requirements with respect to the taking of preventive or remedial action (by holders of permits or other persons) in connection with the surrender and revocation of permits.
- 9 (1) Authorising, or authorising the Scottish Ministers to make schemes for, the charging by the Scottish Ministers or public or local authorities of fees or other charges in respect of—
 - (a) the testing or analysis of substances in cases mentioned in sub-paragraph (2),
 - (b) the validating of, or of the results of, any testing or analysis of substances in such cases, or
 - (c) assessing how the environment might be affected by the release into it of any substances in such cases.
- (2) The cases are those where the testing, analysis, validating or assessing is in any way in anticipation of, or otherwise in connection with, the making of applications for the grant of permits or is carried out in pursuance of conditions to which any permit is subject.

Registration

- 10 (1) Prescribing the form and content of—
 - (a) applications for registration,

- (b) registration.
- (2) Regulating the procedure for registration including—
 - (a) the procedure to be followed in connection with—
 - (i) applications for registration,
 - (ii) the determination of such applications, and
 - (iii) the grant of registration, and
 - (b) variation, transfer, surrender, suspension and revocation of registrations.
- (3) Authorising registration to be granted subject to conditions imposed by regulators.
- (4) Securing that registrations have effect subject to specified conditions.
- (5) Specifying restrictions or other requirements in connection with registration, including—
 - (a) circumstances in which registration may be refused,
 - (b) the subsistence of registration.

Provisions common to permits and registration

- 11 (1) Enabling the granting of permits, or the registration of activities, authorising the carrying on of—
 - (a) one or more regulated activities,
 - (b) a regulated activity at one or more than one place.
- (2) Securing that permits and registrations have effect subject to standard rules specified in or made under the regulations in respect of permits and registrations.
- (3) Specifying a procedure under which regulators may determine such rules.
- (4) Specifying restrictions or other requirements in connection with—
 - (a) applications for permits or registration,
 - (b) the grant of permits (including provisions for restricting the grant of permits to those who are fit and proper persons within the meaning of the regulations),
 - (c) the registration of regulated activities (including provision for restricting registration to the carrying on of such activities by those who are fit and proper persons within the meaning of the regulations).
- (5) Specifying the circumstances in which persons or descriptions of persons may be deemed—
 - (a) to have control over activities the carrying on of which is authorised by grant of a permit or by registration (including complying with any conditions or requirements of the permit or registration),
 - (b) to be carrying on a regulated activity for the purposes of notices that may be served by regulators under paragraph 18,
 - (c) to be authorised to carry on a regulated activity without having applied for a permit or registration, or having given notification, in respect of that activity.
- (6) Enabling the granting of a permit to, or registration of the carrying on of regulated activities by, more than one person.
- (7) Enabling permits and registrations—

- (a) to be varied, transferred, surrendered, suspended or revoked wholly or in part,
 - (b) to be varied, suspended or revoked as mentioned in paragraph (a) in consequence of the person to whom the permit was granted or (as the case may be) who is authorised to carry on the regulated activities to which the registration relates ceasing to be a fit and proper person within the meaning of the regulations,
 - (c) to be consolidated.
- (8) Providing for the transfer of a permit or registration to be refused if the person to whom it is proposed to be transferred is not a fit and proper person within the meaning of the regulations.

Notification of regulated activities

- 12 (1) Prescribing the form and content of notifications and otherwise regulating the procedure for notifying the carrying on or proposed carrying on of regulated activities.
- (2) Specifying restrictions or other requirements in connection with notifications, including—
- (a) the subsistence of a notification,
 - (b) the subsistence of an authorisation to carry on a regulated activity in respect of which the notification is given.

Charging schemes

- 13 (1) Authorising, or authorising regulators to make, vary and revoke schemes for the charging by regulators of fees or other charges—
- (a) in respect of, or in respect of applications for—
 - (i) the grant of a permit,
 - (ii) the variation of a permit or the conditions to which it is subject,
 - (iii) the transfer, surrender or revocation of a permit,
 - (iv) registration,
 - (v) the variation, transfer, surrender or revocation of registration,
 - (b) in respect of the subsistence of a permit or registration,
 - (c) in respect of consolidation of permits and registrations,
 - (d) in respect of notifications,
 - (e) in respect of other specified matters.
- (2) Regulating the procedure for making, varying and revoking such schemes.

Information, publicity and consultation

- 14 Enabling persons of any specified description (whether or not they are holders of permits or carrying on activities that are subject to registration, a requirement of notification or general binding rules) to be required—
- (a) to provide such information in such manner as is specified in the regulations,
 - (b) to compile information—
 - (i) on emissions,

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- (ii) on energy consumption and on the efficiency with which energy is used,
 - (iii) on waste and on the origins and destinations of waste.
- 15 Securing that—
- (a) publicity is given to specified matters,
 - (b) regulators maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be, commercially confidential and subject to any other exceptions specified in the regulations) which are open to public inspection,
 - (c) regulators publish, in a manner specified in the regulations, such registers,
 - (d) copies of entries in such registers, or of specified documents, may be obtained by members of the public.
- 16 Requiring or authorising regulators to carry out consultation in connection with the exercise of any of their functions (including consultation on any guidance they propose to issue in connection with the exercise of those functions), and providing for them to take into account representations made to them on consultation.

Enforcement and offences

- 17 (1) Conferring functions on regulators with respect to compliance with, and enforcement of, the regulations.
- (2) Conferring power on regulators—
- (a) to arrange for preventive or remedial action to be taken at the expense of persons carrying on regulated activities,
 - (b) to require such persons to provide such financial security as the regulators making the arrangements consider appropriate pending the taking of the preventative or remedial action.
- (3) Authorising regulators to appoint suitable persons to exercise the functions mentioned in sub-paragraph (1) and the powers in sub-paragraph (2); and conferring powers (such as those specified in section 108(4) of the Environment Act 1995 (powers of entry, etc.)) on persons so appointed.
- (4) Regulating the procedure under which regulators may make arrangements, or impose requirements, such as are mentioned in sub-paragraph (2).
- 18 (1) Authorising regulators to serve on any persons carrying on regulated activities (whether or not the carrying on of those activities is authorised by or under the regulations) notices, including notices requiring such persons—
- (a) to notify the regulated activities being carried on by them,
 - (b) to take preventative or remedial action at their own expense, including such action in respect of contraventions (actual or potential) of authorisations, or conditions of authorisations, relating to the regulated activities,
 - (c) to provide such financial security as the regulators serving the notices consider appropriate pending the taking of preventative or remedial action required by virtue of paragraph (b),
 - (d) to take steps to remove imminent risks of serious adverse impacts on the environment (whether or not arising from any contraventions such as are mentioned in paragraph (b)),

- (e) to stop the carrying on of regulated activities (whether or not the notice also requires the person to take such preventative or remedial action as may be specified in the notice).
- (2) Authorising regulators, where such notices are not complied with by persons on whom they are served—
 - (a) to take, or arrange for the taking of, preventative or remedial action at the expense of those persons,
 - (b) to impose monetary penalties on those persons.
- (3) Authorising regulators who serve such notices to require the persons on whom the notice is served to pay the cost incurred by the regulators in relation to the service of the notice up to the time of its service.
- (4) Providing for the enforcement of such notices by civil proceedings.
- (5) Specifying a procedure under which monetary penalties such as are mentioned in sub-paragraph (2)(b) may be imposed.
- (6) Authorising regulators, where they are required by virtue of such a procedure to serve a notice, to require the person on whom the notice is served to pay the costs incurred by the regulators in relation to the service of the notice up to the time of its service.
- (7) Providing for the enforcement of such notices by civil proceedings.
- 19 Creating offences and dealing with matters relating to such offences, including—
 - (a) the provision of defences, and
 - (b) evidentiary matters.
- 20 Enabling, where a person has been convicted of an offence under the regulations, a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment).

Appeals

- 21 (1) Conferring rights of appeal in respect of decisions made, notices served or other things done (or omitted to be done) under the regulations.
- (2) Making provision for (or for the determination of) matters relating to the making, considering and determination of such appeals (including provision for or in connection with the holding of inquiries or hearings).

General

- 22 (1) Making provision which, subject to any modifications that the Scottish Ministers consider appropriate, corresponds or is similar to—
 - (a) any provision made by or under, or capable of being made under, Part 2 of the Environmental Protection Act 1990, or
 - (b) any provision made, or capable of being made, under section 2(2) of the European Communities Act 1972 in connection with an EU obligation relating to protecting and improving the environment.
- (2) Making provision about the application of the regulations to the Crown.

PART 2

SUPPLEMENTARY PROVISIONS

Particular types of regulated activity

- 23 The regulations may provide for specified provisions of the regulations to have effect in relation only to—
- (a) specified regulated activities,
 - (b) the carrying on of regulated activities in specified circumstances, or
 - (c) the carrying on of regulated activities by specified persons or descriptions of persons.

Emissions trading scheme

- 24 (1) The regulations may authorise the inclusion in a trading scheme of—
- (a) provision for penalties in respect of contraventions of provisions of the scheme,
 - (b) provision for the amount of any penalty under the scheme to be such as may be set out in, or calculated in accordance with—
 - (i) the scheme, or
 - (ii) the regulations (including regulations made after the scheme).
- (2) In this paragraph, “trading scheme” means a scheme of the kind mentioned in paragraph 2(3).

General binding rules

- 25 (1) General binding rules may—
- (a) impose conditions or requirements,
 - (b) prescribe standards or objectives to be complied with or achieved, and
 - (c) require standards or objectives specified in or under other enactments to be complied with or achieved.
- (2) Before determining any general binding rules in accordance with a procedure specified under paragraph 4(5), a regulator must—
- (a) publish a draft of the proposed rules,
 - (b) publicise the opportunity to make representations about the proposed rules under sub-paragraph (3) in such manner as the regulator thinks fit,
 - (c) make copies of the proposed rules available for public inspection for such period, which must be at least 28 days, as the regulator may determine.
- (3) Any person who wishes to make representation about the proposed rules to the regulator may do so within the period determined under sub-paragraph (2)(c).
- (4) The regulator must, in determining the rules, have regard to any representations on the proposed rules received by the regulator within that period.

Determination of matters by regulators

- 26 The regulations may make provision for anything which, by virtue of paragraphs 5 to 12, could be provided for by the regulations to be determined under the regulations by regulators.

Determination of rules and imposition of conditions

- 27 The regulations may provide—
- (a) for regulators to have regard to any specified general principles, and to any directions or guidance given under the regulations—
 - (i) in determining any general binding rules,
 - (ii) in imposing any conditions as mentioned in paragraph 6(2) or 10(3),
 - (iii) in setting any standard rules they may make by virtue of paragraph 11(2),
 - (b) for such guidance to include the sanctioning of reliance by a regulator on any arrangements referred to in the guidance to operate to secure a particular result as an alternative to imposing any such conditions,
 - (c) for such conditions to be imposed by reference to agreements between or among persons authorised to carry on regulated activities as to the carrying on by them of the activities.

Charging schemes

- 28 The regulations may—
- (a) require any such scheme as is mentioned in paragraph 9 or 13 to be so framed that the fees and charges payable under the scheme—
 - (i) are determined in the light of any specified general principles and any directions or guidance given under the regulations,
 - (ii) are sufficient, taking one year with another, to cover such expenditure (whether or not incurred by the regulator to whom they are so payable) as is specified,
 - (b) authorise any such scheme to make different provision for different cases (and specify particular kinds of such cases).

Fit and proper persons

- 29 The regulations may make provision that the conditions subject to which a registration or permit has effect include a condition that the person authorised to carry on the regulated activities to which the registration relates, or to whom the permit is granted, must remain a fit and proper person within the meaning of the regulations.

Power to specify EU instruments for the purposes of paragraph 22

- 30 The Scottish Ministers may, for the purposes of paragraph 22(1)(b), by order specify an EU instrument as one that is or contains an EU obligation mentioned in that paragraph.

Offences

- 31 (1) The regulations may provide for any such offence as is mentioned in paragraph 19 to be triable—

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- (a) only summarily,
 - (b) either summarily or on indictment.
- (2) The regulations may provide for such an offence to be punishable—
- (a) on summary conviction by—
 - (i) imprisonment for a term not exceeding such period as is specified (which must not exceed 12 months),
 - (ii) a fine not exceeding such amount as is specified (which must not exceed £40,000), or
 - (iii) both,
 - (b) on conviction on indictment by—
 - (i) imprisonment for a term not exceeding such period as is specified (which must not exceed 5 years),
 - (ii) a fine, or
 - (iii) both.
- (3) The regulations may provide for continuing offences and for any such offences to be punishable by a daily or other periodic fine of such amount as is specified (in addition to any punishment provided for in pursuance of sub-paragraph (2)).
- (4) The Scottish Ministers may by order substitute for the sum for the time being specified in sub-paragraph (2)(a)(ii) such other sum as appears to them to be justified by a change in the value of money appearing to them to have taken place since the last occasion on which the sum was fixed.
- (5) An order under sub-paragraph (4) is not to affect the punishment for an offence committed before that order comes into force.

Service of notices

- 32 The regulations may make provision for or in connection with the service of any notice or other document required under the regulations to be served on or given to any person.

Powers exercisable in the regulations

- 33 The regulations may—
- (a) modify any enactment, instrument or document,
 - (b) in making different provision for different purposes, make different provision for different cases, persons, circumstances or areas,
 - (c) contain provision for the delegation of functions,
 - (d) impose requirements in relation to any standards or other matters set out in such documents as may be specified in the regulations.

Interpretation

- 34 In this schedule—
- “authorise”, in relation to regulated activities, means authorise the carrying on of the activities in accordance with a permit, subject to registration, subject to notification or subject to compliance with general binding rules; and related expressions are to be construed accordingly,

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“functions” includes powers and duties,
“general binding rules” means rules specified in or made under the regulations in pursuance of paragraph 4(3)(d),
“notification” means notification of the carrying on of, or of a proposal to carry on, a regulated activity in accordance with any provision made in the regulations in pursuance of paragraph 4(3)(c),
“permit” means a permit granted under any provision made in the regulations in pursuance of paragraph 4(3)(a),
“registration” means registration under any provision made in the regulations in pursuance of paragraph 4(3)(b),
“the regulations” means regulations under section 18,
“regulated activities” has the meaning given in section 17(3),
“regulators” has the meaning given in paragraph 3(1),
“specified” means specified in the regulations.

SCHEDULE 3

(introduced by section 57)

MINOR AND CONSEQUENTIAL MODIFICATIONS

PART 1

REGULATION OF ENVIRONMENTAL ACTIVITIES ETC.

Sewerage (Scotland) Act 1968

- 1 (1) The Sewerage (Scotland) Act 1968 is amended as follows.
 - (2) In section 29A (priority substances etc.), in subsection (3)—
 - (a) the word “or” immediately following paragraph (a) is repealed, and
 - (b) for paragraph (b) substitute—
 - “(b) regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014, or
 - (c) any directive concerning the same subject-matter as the directive mentioned in subsection (1).”.
 - (3) In section 38H (Controlled Activities Regulations), for subsection (3)(b) substitute—
 - “(b) regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014.”.

Prevention of Oil Pollution Act 1971

- 2 In section 11A of the Prevention of Oil Pollution Act 1971 (certain provisions not to apply where discharge or escape authorised under certain enactments), in subsection (1), after “1999” insert “or section 18 of the Regulatory Reform (Scotland) Act 2014”.

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Environmental Protection Act 1990

- 3 (1) The Environmental Protection Act 1990 is amended as follows.
- (2) In section 35 (waste management licences: general), in subsection (11A), after “1999” insert “or by an authorisation under regulations under section 18 of the Regulatory Reform (Scotland) Act 2014”.
- (3) In section 46 (receptacles for household waste), in subsection (4)—
- (a) the word “and” immediately following paragraph (d) is repealed,
 - (b) after paragraph (e) add—
 - “(f) the removal of the receptacles placed for the purpose of facilitating the emptying of them; and
 - (g) the time when the receptacles must be placed for that purpose and removed.”.
- (4) In section 47 (receptacles for commercial or industrial waste), in subsection (4)—
- (a) the word “and” immediately following paragraph (d) is repealed,
 - (b) after paragraph (e) add—
 - “(f) the removal of the receptacles placed for the purpose of facilitating the emptying of them; and
 - (g) the time when the receptacles must be placed for that purpose and removed.”.
- (5) In section 79 (statutory nuisances and inspections therefor), in subsection (10), after “1999” insert “or section 18 of the Regulatory Reform (Scotland) Act 2014”.

Clean Air Act 1993

- 4 (1) The Clean Air Act 1993 is amended as follows.
- (2) In section 31 (regulations about sulphur content of oil fuel for furnaces or engines), in subsection (4)—
- (a) in paragraph (a)—
 - (i) the word “or” immediately following sub-paragraph (i) is repealed,
 - (ii) after sub-paragraph (ii) insert “; or
 - (iii) part of an activity subject to regulation by the Scottish Environment Protection Agency under regulations under section 18 of the Regulatory Reform (Scotland) Act 2014;”,
 - (b) in paragraph (b), after “sub-paragraph (ii)” insert “or (iii)”.
- (3) In section 33 (cable burning), in subsection (1), after “1999” insert “or section 18 of the Regulatory Reform (Scotland) Act 2014”.
- (4) In section 35 (obtaining information), in subsection (3), after “1999” insert “or section 18 of the Regulatory Reform (Scotland) Act 2014”.
- (5) In section 36 (notices requiring information about air pollution), in subsection (2A) after “1999” insert “or to an activity subject to regulation by the Scottish Environment Protection Agency under regulations under section 18 of the Regulatory Reform (Scotland) Act 2014”.

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- (6) In section 41A (relation to Pollution Prevention and Control Act 1999)—
- (a) in subsection (1), after “activities)” insert “or section 18 of the Regulatory Reform (Scotland) Act 2014”,
 - (b) in subsection (2)—
 - (i) in paragraph (a), after “permit” insert “or authorisation”,
 - (ii) in paragraph (b), after “permit” insert “or authorisation”,
 - (c) in subsection (3)—
 - (i) the words from “permit” to the end of the subsection become paragraph (a) of that subsection,
 - (ii) after that paragraph insert “; and
 - (b) “authorisation” means an authorisation under regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014, and the reference to an appeal is to an appeal under those regulations.”.
- (7) In the title to section 41A, after “1999” insert “and Regulatory Reform (Scotland) Act 2014”.

Environment Act 1995

- 5 (1) The Environment Act 1995 is amended as follows.
- (2) In section 56 (interpretation of Part 1), in the definition of “environmental licence” in relation to SEPA, after paragraph (aa) insert—
- “(ab) an authorisation under regulations under section 18 of the Regulatory Reform (Scotland) Act 2014,”.
- (3) In section 108 (powers of enforcing authorities and persons authorised by them), in subsection (15), in paragraph (n) of the definition of “pollution control functions” in relation to SEPA, after “1999” insert “or section 18 of the Regulatory Reform (Scotland) Act 2014”.
- (4) In section 114 (power of the Scottish Ministers to delegate functions of determining, or to refer matters involved in, appeals), in subsection (2)(a)(viii), after “Scotland” insert “or under section 18 of the Regulatory Reform (Scotland) Act 2014”.

Merchant Shipping Act 1995

- 6 In section 136A of the Merchant Shipping Act 1995 (discharges etc. authorised under other enactments), after “1999” insert “or an authorisation under regulations under section 18 of the Regulatory Reform (Scotland) Act 2014”.

Pollution Prevention and Control Act 1999

- 7 In the Pollution Prevention and Control Act 1999, in section 1 (general purpose of section 2 and definitions)—
- (a) paragraph (a) is repealed,
 - (b) in paragraph (b), the words “, otherwise in pursuance of that Directive,” are repealed.

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Water Environment and Water Services (Scotland) Act 2003

- 8 (1) The Water Environment and Water Services (Scotland) Act 2003 is amended as follows.
- (2) In section 2 (the general duties), in subsection (8), in the definition of “the relevant enactments”, after “Part” insert “, Part 3 of the Regulatory Reform (Scotland) Act 2014”.
- (3) Section 20 (regulation of controlled activities) is repealed.
- (4) Section 21 (controlled activities regulations: procedure) is repealed.
- (5) In section 22 (remedial and restoration measures)—
- (a) in subsection (2)(a), the words “(as defined in section 20(6))” are repealed,
 - (b) after subsection (3) insert—
 - “(4) In subsection (2)(a), “pollution” in relation to the water environment means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm; and “harm” means—
 - (a) harm to the health of human beings or other living organisms,
 - (b) harm to the quality of the water environment, including—
 - (i) harm to the quality of the water environment taken as a whole,
 - (ii) other impairment of, or interference with the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,
 - (c) offence to the senses of human beings,
 - (d) damage to property, or
 - (e) impairment of, or interference with, amenities or other legitimate uses of the water environment.”.
- (6) In section 23 (fixing of charges for water services)—
- (a) in paragraph (a) of subsection (4), the words “(as defined in section 20(6))” are repealed,
 - (b) after that subsection insert—
 - “(5) In subsection (4)(a), “abstraction” means the doing of anything by which any water is removed or diverted by mechanical means, pipe or any engineering structure or works from any part of the water environment, whether temporarily or permanently, including anything by which the water is so removed or diverted for the purpose of being transferred to another part of the water environment, and includes—
 - (a) the construction or extension of any well, borehole, water intake or other work by which water may be abstracted,
 - (b) the installation or modification of any machinery or apparatus by which additional quantities of water may be abstracted by means of a well, borehole, water intake or other work.”.

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- (7) In section 28 (interpretation of Part 1), the definition of “controlled activity” is repealed.
- (8) In section 36 (orders and regulations)—
 - (a) in each of subsections (3), (5) and (6) the word “20,” is repealed,
 - (b) in subsection (4), paragraph (b) and the “or” immediately preceding it are repealed.
- (9) In schedule 1 (matters to be included in river basin management plans), in paragraph 10(b), for the words “schedule 2” substitute “paragraph 3(1) of schedule 2 to the Regulatory Reform (Scotland) Act 2014”.
- (10) Schedule 2 (controlled activities regulations: particular purposes) is repealed.

Water Services etc. (Scotland) Act 2005

- 9 In section 25 of the Water Services etc. (Scotland) Act 2005 (sewerage nuisance: code of practice), in subsection (9), after “(c.24)” insert “or by an authorisation under regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014”.

Water Resources (Scotland) Act 2013

- 10 (1) The Water Resources (Scotland) Act 2013 is amended as follows.
- (2) In section 5 (qualifying abstraction), in subsection (2), for the words from “20(3)(b)” to the end of the subsection substitute “23(5) of the 2003 Act.”.
- (3) In section 21 (Controlled Activities Regulations), for subsection (5)(b) substitute—
 - “(b) regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014.”.
- (4) In section 50 (Controlled Activities Regulations), for subsection (5)(b) substitute—
 - “(b) regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014.”.

PART 2

ENFORCEMENT OF REGULATIONS ON ENVIRONMENTAL ACTIVITIES ETC.

Environmental Protection Act 1990

- 11 (1) The Environmental Protection Act 1990 is amended as follows.
- (2) In section 33A (fixed penalty notices for contraventions of section 33(1)(a) and (c): Scotland)—
 - (a) in subsection (1), in paragraph (a)—
 - (i) for the words “officer of a local authority” substitute “person or a constable”,
 - (ii) the words from “in” to the end of paragraph (b) are repealed,
 - (b) in subsection (4), paragraph (b) and the word “or” immediately preceding it are repealed,
 - (c) after subsection (8) insert—

Status: This is the original version (as it was originally enacted).

- “(8A) If an authorised person proposes to give a person a notice under this section, the authorised person may require the person to give him his name and address.
- (8B) A person commits an offence if he fails to give his name and address when required to do so under subsection (8A) above.
- (8C) A person who commits an offence under subsection (8B) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”,
- (d) in subsection (11), in paragraph (a), for the words from “the” where it first occurs to “committed” substitute “a proper officer”,
- (e) after subsection (11) insert—
- “(11A) In subsection (11) above, “proper officer” means—
- (a) in a case where a notice under this section is given by an officer of a local authority authorised as mentioned in paragraph (a) of the definition of “authorised person” in subsection (13) below, the officer who has, as respects the authority, the responsibility mentioned in section 95 of the Local Government (Scotland) Act 1973 (financial administration);
- (b) in a case where a notice under this section is given by an officer of Loch Lomond and The Trossachs National Park Authority authorised as mentioned in paragraph (b) of that definition, the proper officer for that Authority appointed under paragraph 12(3) of schedule 2 to the National Parks (Scotland) Act 2000.”,
- (f) in subsection (12)—
- (i) after “payable”, where it second occurs, insert—
- “(a) in a case such as is mentioned in paragraph (a) of subsection (11A) above.”,
- (ii) at the end insert—
- “(b) in a case such as is mentioned in paragraph (b) of that subsection, to Loch Lomond and The Trossachs National Park Authority; and as respects the sums received by that Authority, those sums shall accrue to that Authority.”,
- (g) in subsection (13)—
- (i) for the definition of “authorised officer” substitute—
- ““authorised person” means—
- (a) an officer of a local authority who is authorised in writing by the authority for the purpose of issuing notices under this section in relation to a relevant offence committed in the area of the authority;
- (b) an officer of Loch Lomond and The Trossachs National Park Authority who is authorised in writing by the Authority for the purpose of issuing notices under this section in relation to a relevant offence committed in the area designated as the National Park for which the Authority is established; or

Status: This is the original version (as it was originally enacted).

- (c) such other persons as may be specified by order made by the Scottish Ministers.”,
 - (ii) the definition of “proper officer” is repealed,
 - (h) after subsection (13) insert—
 - “(13A) The Scottish Ministers may by order make such modifications of this section as they consider necessary or expedient in connection with the specification of a person by an order under paragraph (c) of the definition of “authorised person” in subsection (13) above.
 - (13B) An order under subsection (13A) above may include provision—
 - (a) applying any provision of this section to such a person with such modifications as may be specified in the order;
 - (b) for any such provision not to apply in relation to such a person.”.
- (3) In section 59 (power to require removal of waste unlawfully deposited), after subsection (8B) insert—
 - “(8C) An authority may not recover costs under subsection (8) above if a compensation order has been made under section 249 of the Criminal Procedure (Scotland) Act 1995 in favour of the authority in respect of any part of those costs.
 - (8D) Subsection (8C) does not apply if the compensation order is set aside on appeal.”.
- (4) In section 88 (fixed penalty notices for leaving litter)—
 - (a) in subsection (1), in paragraph (a)—
 - (i) for the words “officer of a litter authority” substitute “person or a constable”,
 - (ii) the words from “in” to the end of paragraph (b) are repealed,
 - (b) in subsection (5A), for the words “to the litter authority in whose area the offence was committed” substitute—
 - “(a) where the notice is given by an officer of a litter authority authorised as mentioned in paragraph (a) of the definition of “authorised person” in subsection (10) below, to that litter authority;
 - (b) where the notice is given by an officer of Loch Lomond and The Trossachs National Park Authority authorised as mentioned in paragraph (b) of that definition, to that Authority.”,
 - (c) in subsection (6)—
 - (i) the words from “a litter” to the end become paragraph (a) of that subsection, and
 - (ii) after that paragraph insert—
 - “(b) Loch Lomond and The Trossachs National Park Authority, shall accrue to that Authority.”,
 - (d) in subsection (8), in paragraph (a)(ii), for the words from “the” where it first occurs to “committed” substitute “a proper officer”,
 - (e) after subsection (8) insert—

Status: This is the original version (as it was originally enacted).

- “(8A) In subsection (8) above, “proper officer” means—
- (a) in a case where a notice under this section is given as mentioned in paragraph (a) of subsection (5A) above, the officer who has, as respects the litter authority, the responsibility mentioned in section 95 of the Local Government (Scotland) Act 1973 (financial administration);
 - (b) in a case where a notice is given as mentioned in paragraph (b) of that subsection, the proper officer for that Authority appointed under paragraph 12(3) of schedule 2 to the National Parks (Scotland) Act 2000.
- (8B) If an authorised person proposes to give a person a notice under this section, the authorised person may require the person to give him his name and address.
- (8C) A person commits an offence if he fails to give his name and address when required to do so under subsection (8B) above.
- (8D) A person who commits an offence under subsection (8C) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”,
- (f) in subsection (10)—
- (i) for the definition of “authorised officer” substitute—
 - ““authorised person” means—
 - (a) an officer of a litter authority who is authorised in writing by the authority for the purpose of issuing notices under this section in relation to an offence under section 87 above committed in the area of the authority;
 - (b) an officer of Loch Lomond and The Trossachs National Park Authority who is authorised in writing by the Authority for the purpose of issuing notices under this section in relation to an offence under section 87 above committed in the area designated as the National Park for which the Authority is established; or
 - (c) such other persons as may be specified by order made by the Scottish Ministers.”,
 - (ii) the definition of “proper officer” is repealed,
- (g) after subsection (10) insert—
- “(10A) The Scottish Ministers may by order make such modifications of this section as they consider necessary or expedient in connection with the specification of a person by an order under paragraph (c) of the definition of “authorised person” in subsection (10) above.
- (10B) An order under subsection (10A) above may include—
- (a) provision applying any provision of this section to such a person with such modifications as may be specified in the order;

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- (b) provision for any such provision not to apply in relation to such a person.”.

Criminal Procedure (Scotland) Act 1995

- 12 In section 249 of the Criminal Procedure (Scotland) Act 1995 (compensation order against convicted person), after subsection (10) add—

“(11) This section is subject to section 34 of the Regulatory Reform (Scotland) Act 2014.”.

Reservoirs (Scotland) Act 2011

- 13 (1) The Reservoirs (Scotland) Act 2011 is amended as follows.
- (2) Sections 78 to 81 (enforcement undertakings, fixed monetary penalties, fixed monetary penalties: procedure and fixed monetary penalties: criminal proceedings and conviction, etc.) are repealed.
- (3) In section 82 (further enforcement measures)—
- (a) in subsection (4)—
- (i) for the word “any” substitute “either”,
- (ii) paragraph (a) is repealed,
- (b) in subsection (5), the definition of “variable monetary penalty” is repealed.
- (4) In section 83 (further enforcement measure: procedure), subsections (6)(b) and (7)(c) are repealed.
- (5) In section 84 (further enforcement measures: criminal proceedings and conviction), subsection (3)(b) is repealed.
- (6) In section 86 (consultation in relation to certain orders), in subsection (1), paragraphs (b) and (c) are repealed.
- (7) In the title of section 86, the words “, 78(1), 79(1)” are omitted.
- (8) In section 87 (guidance as to use of stop notices, etc.), paragraphs (b) and (c) are repealed,
- (9) In the title of section 87, the words “, fixed monetary penalties” are omitted.
- (10) In section 89 (guidance: appeals), the words “, 78, 80,” are repealed.
- (11) In section 90 (publication of enforcement action)—
- (a) in subsection (2), paragraph (b) is repealed,
- (b) in subsection (3) the words “, fixed monetary penalty” are repealed.
- (12) In section 114 (orders and regulations), in subsection (4)(f), the words “, 78(1), 79(1)” are repealed.
- (13) In the schedule (index of defined expressions), the entries in the first column relating to “enforcement undertaking” and “fixed monetary penalty”, and the corresponding interpretation provisions in the second column, are repealed.

PART 3**PURPOSES OF SEPA***Environment Act 1995*

- 14 (1) The Environment Act 1995 is amended as follows.
- (2) In section 31 (guidance on sustainable development and other aims and objectives), after subsection (2) insert—
- “(2A) The Scottish Ministers may give guidance to SEPA with respect to the carrying out of its duties under section 20A.”.
- (3) In the title to section 31, after “on” insert “SEPA’s general purpose and on”.
- (4) Section 32 (general environmental and recreational duties) is repealed.
- (5) In section 33 (general duties with respect to pollution)—
- (a) subsections (1), (4) and (5) are repealed,
 - (b) in subsection (2)—
 - (i) for “shall” substitute “may”,
 - (ii) in paragraph (a), the words “pollution control” are repealed,
 - (iii) in paragraph (b), the words “pollution of” are repealed,
 - (iv) for “such pollution” substitute “the general state of the environment”.
- (6) The title to section 33 becomes “**General duties as respects the state of the environment and effects of pollution**”.
- (7) Section 34 (general duties with respect to water) is repealed.
- (8) Section 36 (codes of practice with respect to environmental and recreational duties) is repealed.
- (9) In section 39 (general duty of the new Agencies to have regard to the costs and benefits in exercising powers)—
- (a) in subsection (1), for “Each new” substitute “The”,
 - (b) in subsection (2), for “a new” substitute “the”.
- (10) In the title to section 39, for the words “new Agencies” substitute “Agency”.
- (11) In section 81 (functions of the new Agencies), in subsection (2)—
- (a) the word “means” is repealed,
 - (b) at the beginning of paragraph (a) insert “means”,
 - (c) in paragraph (b), for the words from “the functions” to the end of the paragraph, substitute “has the same meaning as in section 108(15) below in relation to SEPA”.

Water Industry (Scotland) Act 2002

- 15 In schedule 7 to the Water Industry (Scotland) Act 2002 (modifications of other enactments), paragraph 24(2) is repealed.

PART 4

CONTROL OF POLLUTION ACT 1974

- 16 (1) The Control of Pollution Act 1974 is amended as follows.
- (2) The following provisions are repealed—
- (a) section 30B (classification of quality waters),
 - (b) section 30C (water quality objectives),
 - (c) section 30D (general duties to achieve and maintain objectives, etc.),
 - (d) section 30E (consultation and collaboration),
 - (e) section 31B (nitrate sensitive areas),
 - (f) section 31C (registering of agreement),
 - (g) section 41 (registers),
 - (h) section 42A (exclusion from registers of information affecting national security),
 - (i) section 42B (exclusion from registers of certain confidential information),
 - (j) section 43 (control of discharges into sewers),
 - (k) section 44 (provisions supplementary to section 43),
 - (l) section 45 (early variation of conditions of discharges),
 - (m) section 52 (charges in respect of certain discharges in England and Wales),
 - (n) section 57 (periodical inspections by local authorities),
 - (o) sections 63 to 67 (noise abatement zones),
 - (p) section 69 (execution of works by local authority),
 - (q) in section 87 (miscellaneous provisions relating to legal proceedings), subsection (3),
 - (r) section 88 (civil liability for contravention of section 3(3)),
 - (s) section 90 (establishment charges and interest in respect of certain expenses of authorities),
 - (t) section 101 (disposal of waste etc. by Atomic Energy Authority),
 - (u) Schedule 1 (noise abatement zones), and
 - (v) Schedule 1A (orders designating nitrate sensitive areas: Scotland).
- (3) In section 30Y (introductory), in subsection (1) (meaning of “abandonment” in relation to a mine), in paragraph (b)—
- (a) the word “or” immediately following sub-paragraph (i) is repealed,
 - (b) after sub-paragraph (ii) insert “or
 - (iii) any disclaimer by notice signed by the Queen’s and Lord Treasurer’s Remembrancer under section 1013 of the Companies Act 2006 (Crown disclaimer of property vesting as *bona vacantia*).”.
- (4) In section 51 (codes of good agricultural practice), in subsection (2), the words from “but” to the end of the subsection are repealed.
- (5) In section 55A (regulations under Part 2), the words “and sections 43 to 45” are repealed.
- (6) In section 56 (interpretation etc. of Part 2)—
- (a) in subsection (1)—

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- (i) in the definition of “coastal waters”, “controlled waters”, “ground waters”, “inland waters” and “relevant territorial waters”, for the words from the beginning to “meanings” substitute ““controlled waters” has the meaning”,
 - (ii) the definitions of “effluent”, “micro-organism”, “operations”, “sewage effluent”, “substance” and “trade effluent” are repealed,
 - (b) subsections (3), (5) and (6) are repealed.
- (7) In section 73 (interpretation and other supplementary provisions)—
- (a) in subsection (1), the definitions of the following expression are repealed—
 - (i) “noise abatement order” and “noise abatement zone”,
 - (ii) “noise level register”,
 - (iii) “noise reduction notice”, and
 - (iv) “person responsible”,
 - (b) in subsection (2), for the words “sections 62 to 67” in both places where they occur, substitute “section 62”.
- (8) In section 74 (penalties)—
- (a) in subsection (1), in paragraph (a), the words “in the case of a first offence against this Part of this Act,” are repealed,
 - (b) the words from “; and” immediately following that paragraph to the end of the section are repealed.
- (9) In section 104 (orders and regulations)—
- (a) in subsection (1), the following words are repealed—
 - (i) “(except sections 63 and 65(6))”, and
 - (ii) “regulations made by virtue of section 18 of this Act or”,
 - (b) in subsection (2), the following words are repealed—
 - (i) “regulations shall be made by virtue of section 18 of this Act and no”, and
 - (ii) “regulations or”.
- (10) In section 105 (interpretation etc. – general), in subsection (1), the definition of “trade effluent” is repealed.

PART 5

MISCELLANEOUS ENACTMENTS

Scottish Board of Health Act 1919

- 17 In the Scottish Board of Health Act 1919, in section 4 (transfer of powers and duties to and from the Board), paragraph (d) of subsection (1) is repealed.

Local Government (Scotland) Act 1973

- 18 In the Local Government (Scotland) Act 1973, in Schedule 27 (adaptation and amendment of enactments), paragraphs 146 to 148 are repealed.

Local Government, Planning and Land Act 1980

- 19 In the Local Government, Planning and Land Act 1980, in Schedule 2 (relaxation of controls over functions relating to clean air and pollution), paragraphs 10, 14 and 18 are repealed.

Litter Act 1983

- 20 In the Litter Act 1983—
- (a) in section 4 (consultation and proposals for abatement of litter), subsections (4), (4ZA), (4A) and (5) are repealed,
 - (b) in section 9 (orders), subsection (3) is repealed,
 - (c) in section 13 (short title, commencement and extent), in subsection (4), the words “4(4),” are repealed.

Water Act 1989

- 21 In the Water Act 1989, in Schedule 23 (control of water pollution in Scotland), paragraphs 2 and 3 are repealed.

Planning (Consequential Provisions) Act 1990

- 22 In the Planning (Consequential Provisions) Act 1990, in Schedule 2 (consequential amendments), paragraph 31(1) is repealed.

Environmental Protection Act 1990

- 23 In the Environmental Protection Act 1990—
- (a) in section 79 (statutory nuisances and inspections therefor), in subsection (10), the words from “Part I” to “under”, where it third occurs, are repealed,
 - (b) in section 80 (summary proceedings for statutory nuisances)—
 - (i) in paragraph (a) of subsection (9), the words “or 65” are repealed,
 - (ii) paragraph (b) of that subsection, and the word “or” immediately preceding it, are repealed,
 - (iii) paragraph (c) of that subsection, and the word “or” immediately preceding it, are repealed,
 - (iv) subsection (10) is repealed,
 - (c) section 84 (termination of Public Health Act controls over offensive trades, etc.) is repealed,
 - (d) section 145 (penalties for offences of polluting controlled waters, etc.) is repealed,
 - (e) in Schedule 15 (consequential and minor amendments of enactments)—
 - (i) paragraph 2 is repealed,
 - (ii) in paragraph 15, sub-paragraphs (2) and (4) are repealed,
 - (iii) paragraph 17 is repealed,
 - (f) in Schedule 16 (repeals), in Part 1 (enactments relating to processes), the entry relating to [1990 c.43 \(Environmental Protection Act 1990\)](#) is repealed.

Status: This is the original version (as it was originally enacted).

Natural Heritage (Scotland) Act 1991

- 24 (1) Section 24 of the Natural Heritage (Scotland) Act 1991 (rights of entry and inspection under Parts 2 and 3) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, the words “SEPA or” are repealed,
 - (b) in paragraph (a)—
 - (i) the words “SEPA or” are repealed,
 - (ii) the words “II or” are repealed,
 - (c) in paragraph (c)—
 - (i) for the words “either of these Parts” substitute “Part III”,
 - (ii) for the words “one of these Parts” substitute “that Part”.
- (3) In subsection (9), the words “SEPA or”, in both places where they occur, are repealed.
- (4) In the title to section 24, for the words “Parts II and III” substitute “Part III”.

Agricultural Holdings (Scotland) Act 1991

- 25 In section 26 of the Agricultural Holdings (Scotland) Act 1991 (certificates of bad husbandry), subsection (2) is repealed.

Clean Air Act 1993

- 26 In the Clean Air Act 1993, in section 42 (colliery spoilbanks)—
- (a) in subsection (2), for the words “or quarry” substitute “, or the operator of a quarry,”,
 - (b) in subsection (6), for the words from “mine” to the end substitute—
 - ““mine” is to be construed in accordance with section 180 of the Mines and Quarries Act 1954;
 - “operator”, in relation to a quarry, has the meaning given by regulation 2(1) of the [Quarries Regulations 1999 \(S.I. 1999/2024\)](#);
 - “owner”, in relation to a mine, is to be construed in accordance with section 181(1) and (4) of the Mines and Quarries Act 1954;
 - “quarry” is to be construed in accordance with regulation 3 of the Quarries Regulations 1999.”.

Radioactive Substances Act 1993

- 27 In the Radioactive Substances Act 1993, in Schedule 3 (enactments other than local enactments to which section 40 applies)—
- (a) paragraph 11 is repealed,
 - (b) in paragraph 16—
 - (i) the words “, 30B, 30D, 41 to 42B” are repealed,
 - (ii) for “(3)” substitute “(2)”.

Local Government etc. (Scotland) Act 1994

- 28 In the Local Government etc. (Scotland) Act 1994, in Schedule 13 (minor and consequential amendments), sub-paragraphs (3), (5) and (10) of paragraph 95 are repealed.

Environment Act 1995

- 29 (1) The Environment Act 1995 is amended as follows.
- (2) In section 21 (transfer of functions to SEPA)—
- (a) in subsection (1)—
 - (i) paragraph (a)(i), (iii) and (iv) are repealed,
 - (ii) in paragraph (a)(ii), the words from “Part III” to “and” are repealed,
 - (iii) paragraphs (c), (d), (f) and (h) are repealed,
 - (b) in subsection (2), paragraph (b) is repealed.
- (3) Section 23 (functions of the staff commission established under section 12 of the Local Government etc. (Scotland) Act 1994) is repealed.
- (4) In section 56 (interpretation of Part 1), in subsection (1), in the definition of “disposal authority”, paragraph (b) is repealed.
- (5) In section 91 (interpretation of Part 4), in subsection (1), in the definition of “action plan”, for “84(2)(b)” substitute “84(2)”.
- (6) In section 110 (offences)—
- (a) in subsection (1), after “to” insert “assault, hinder or”,
 - (b) in subsection (4)—
 - (i) in paragraph (a), after “of” where it second occurs insert “assaulting, hindering or”,
 - (ii) in sub-paragraph (i) of that paragraph, after “maximum” insert “or to imprisonment for a term not exceeding 12 months, or to both”,
 - (iii) in paragraph (b), for the words “level 5 on the standard scale” substitute “the prescribed sum within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995 or to imprisonment for a term not exceeding 12 months, or to both”,
 - (c) after subsection (5) insert—
 - “(5A) A person may be convicted of the offence under subsection (1) above of hindering or obstructing even though it is—
 - (a) effected by means other than physical means, or
 - (b) effected by action directed only at any vehicle, apparatus, equipment or other thing used or to be used by an authorised person.
 - (5B) Subsection (5C) applies where, in the trial of a person (“the accused”) charged in summary proceedings with an offence under subsection (1) above, the court—
 - (a) is not satisfied that the accused committed the offence, but
 - (b) is satisfied that the accused committed an offence under subsection (2) above.

Status: This is the original version (as it was originally enacted).

- (5C) The court may acquit the accused of the charge and, instead, find the accused guilty of an offence under subsection (2) above.”.
- (7) In section 114 (power of the Scottish Ministers to delegate functions relating to appeals), subsections (2)(a)(i) and (3)(b) are repealed.
- (8) In Schedule 11 (air quality: supplemental provisions)—
- (a) in paragraph 1(1)(b), the words “or 84” are repealed,
 - (b) in paragraph 4(2)(b), the words “or 84” are repealed.
- (9) In schedule 20 (delegation of appellate functions of the Scottish Ministers), paragraph 4(3)(a) is repealed.
- (10) In Schedule 22 (minor and consequential amendments)—
- (a) paragraph 1 is repealed,
 - (b) in paragraph 29—
 - (i) in sub-paragraph (2), for the words from “section 30C(1)” to the end of that sub-paragraph, substitute “section 51”,
 - (ii) sub-paragraphs (4)(b) to (e), (5), (6), (8), (9)(a) and (b), (10) to (15), (17) to (22), (25), (26), (29) and (30) are repealed,
 - (c) paragraph 93 is repealed,
 - (d) in paragraph 96, sub-paragraphs (2) to (5), (7) and (8) are repealed.
- (11) In Schedule 23 (transitional and transitory provisions and savings), the following paragraphs are repealed—
- (a) paragraph 4,
 - (b) paragraph 6,
 - (c) paragraph 8, and
 - (d) paragraph 18.
- 30 The amendments made by paragraph 29 to subsection (4) of section 110 of the Environment Act 1995 do not affect the penalty for an offence under that section committed before the coming into force of those amendments.

Criminal Procedure (Scotland) Act 1995

- 31 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 277 (transcript of police interview sufficient evidence)—
- (a) in subsection (1)—
 - (i) the word “or” immediately following paragraph (a) is repealed, and
 - (ii) after paragraph (b) insert “; or
 - (c) a person authorised by the Scottish Environment Protection Agency under section 108 of the Environment Protection Act 1995 and an accused person.”,
 - (b) after subsection (4) add—

“(5) Subsection (1) is without prejudice to section 108(12) of the Environment Act 1995.”.
- (3) In section 280 (routine evidence)—

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- (a) after subsection (3), insert—
- “(3A) For the purposes of any criminal proceedings, a report purporting to be signed by a person authorised by the Scottish Environment Protection Agency for the purpose of this subsection is sufficient evidence of any fact or conclusion as to fact contained in the report and of the authority of the signatory.”,
- (b) in subsection (6)—
- (i) after “(1)”, where it first occurs, insert “, (3A)”, and
- (ii) in paragraph (b), after “subsection”, where it second occurs, insert “(3A) or”.
- (4) In Schedule 9 (certificates as to proof of certain routine matters)—
- (a) in the table, omit the entry relating to the Water Environment (Controlled Activities) (Scotland) Regulations 2005 Regulation 40,
- (b) at the end of the table insert the following entries—

“The Water Environment
(Controlled Activities)
(Scotland) Regulations
2011 (S.S.I. 2011/209)

Regulation 44	A person authorised to do so by the Scottish Environment Protection Agency	That the person has analysed a sample identified in the certificate (by label or otherwise) and that the sample is of a nature and composition specified in the certificate.
Regulations made by virtue of section 18 of the Regulatory Reform (Scotland) Act 2014 (asp 3)	A person authorised to do so by a regulator (within the meaning of paragraph 3(1) of schedule 2 to that Act)	That the person has analysed a sample identified in the certificate (by label or otherwise) and that the sample is of a nature and composition specified in the certificate. In relation to a person specified in the certificate that, on a date and in relation to an activity so specified, the person held or, as the case may be, did not hold a permit (within the meaning of paragraph 34 of schedule 2 to that Act) granted by such a regulator and, where the person held such a permit,

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any condition to which the permit is subject.

In relation to a person specified in the certificate that, on a date and in relation to an activity so specified, the person held or, as the case may be, did not hold registration (within the meaning of paragraph 34 of schedule 2 to that Act) granted by such a regulator and, where the person held such registration—

- (a) any condition to which the registration is subject;
- (b) whether the registration subsisted on the date specified in the certificate.

In relation to a person specified in the certificate that, on a date and in relation to an activity so specified, the person had given notification (within the meaning of paragraph 34 of schedule 2 to that Act) to such a regulator and, where the person gave such notification, whether the notification subsisted on the date specified in the certificate.

In relation to a permit or registration (in each case within the meaning of paragraph 34 of schedule 2 to that Act) a description of any variation, transfer, surrender, suspension or revocation of the permit or registration.

In relation to a person specified in the certificate

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that, on a date so specified, such regulator served on the person a notice mentioned in paragraph 18 of schedule 2 to that Act.

That such a regulator has, in pursuance of paragraph 4(3)(d) of schedule 2 to that Act, made general binding rules as mentioned in that paragraph, or has, in pursuance of paragraph 11 of that schedule, made standard rules as mentioned in that paragraph; and the content of those general binding rules or standard rules.”.

Town and Country Planning (Scotland) Act 1997

- 32 In the Town and Country Planning (Scotland) Act 1997, in section 275 (regulations and orders), the subsection numbered “(2A)” inserted by section 54(16)(a) of the Planning etc. (Scotland) Act 2006 is renumbered as “(2B)”.

Planning (Consequential Provisions) (Scotland) Act 1997

- 33 In the Planning (Consequential Provisions) (Scotland) Act 1997, in Schedule 2 (consequential amendments), paragraph 23(1) is repealed.

Crime and Punishment (Scotland) Act 1997

- 34 In the Crime and Punishment (Scotland) Act 1997, in section 30 (routine evidence)—
(a) in subsection (1), for the words “subsections (2) and (3)” substitute “subsection (3)”,
(b) subsection (2) is repealed.

City of Edinburgh (Guided Busways) Order Confirmation Act 1998

- 35 In the City of Edinburgh (Guided Busways) Order Confirmation Act 1998, in section 29 (connection of drains, etc, with streams, etc.) of the Order contained in the Schedule confirmed by section 1 of that Act, subsection (4) is repealed.

Pollution Prevention and Control Act 1999

- 36 In the Pollution Prevention and Control Act 1999, in Schedule 3 (repeals), in the third column of the entry relating to the Environmental Protection Act 1990, the words “In section 79(10), the words “under Part I or”” are repealed.

Status: This is the original version (as it was originally enacted).

Antisocial Behaviour etc. (Scotland) Act 2004

- 37 In the Antisocial Behaviour etc. (Scotland) Act 2004, in schedule 2 (penalties for certain environmental offences), paragraph 2 is repealed.

Forth Crossing Act 2011

- 38 In section 70 of the Forth Crossing Act 2011 (control of noise: Control of Pollution Act 1974), subsection (3) is repealed.

PART 6

MODIFICATIONS OF REFERENCES TO “ENACTMENT” ETC.

Control of Pollution Act 1974

- 39 (1) The Control of Pollution Act 1974 is amended as follows.
- (2) In section 73 (interpretation and other supplementary provisions), after subsection (3) insert—
- “(3A) In the definition of “statutory undertakers” in subsection (1), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.
- (3) In section 85 (appeals to Crown Court or Court of Session against decisions of magistrates’ court or sheriff), after subsection (3) add—
- “(4) In subsection (2), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.
- (4) In section 105 (interpretation etc. – general), in subsection (2)(b), after “private” add “or by or under any Act of the Scottish Parliament”.

Environmental Protection Act 1990

- 40 (1) The Environmental Protection Act 1990 is amended as follows.
- (2) In section 33 (prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste), after subsection (10) add—
- “(11) In subsection (4)(c) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.
- (3) In section 57 (powers of the Scottish Ministers to require waste to be accepted, treated, disposed of or delivered), after subsection (7) insert—
- “(7A) In subsection (6) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.
- (4) In section 63 (waste other than controlled waste), after subsection (4) add—
- “(5) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.

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- (5) In section 73 (appeals and other provisions relating to legal proceedings and civil liability), after subsection (9) add—
- “(10) In subsection (2) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
- (6) In section 78X (supplementary provisions), after subsection (4) insert—
- “(4A) In subsection (4)(f)(i) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
- (7) In section 79 (statutory nuisances and inspections therefor), after subsection (6A) insert—
- “(6B) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
- (8) In section 98 (definitions for Part 6), after subsection (6), insert—
- “(6A) In subsection (6) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
- (9) In section 140 (power to prohibit or restrict the importation, use, supply or storage of injurious substances or articles), in subsection (11), before the definition of “the environment” insert—
- ““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”
- (10) In Schedule 4 (abandoned shopping and luggage trolleys), after paragraph 1(2) add—
- “(3) In sub-paragraph (2)(d) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”

Natural Heritage (Scotland) Act 1991

- 41 (1) The Natural Heritage (Scotland) Act 1991 is amended as follows.
- (2) In section 7 (powers of entry), after subsection (11) add—
- “(12) In subsection (1) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
- (3) In Schedule 1 (constitution and proceedings of Scottish Natural Heritage), after paragraph 17(2) add—
- “(3) In sub-paragraph (1) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”

Radioactive Substances Act 1993

- 42 (1) The Radioactive Substances Act 1993 is amended as follows.
- (2) In section 40 (radioactivity to be disregarded for purposes of certain statutory provisions), in subsection (3)—
- (a) in the definition of “statutory provision”, in paragraph (a), after “Act” insert “or Act of the Scottish Parliament”,

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- (b) in the definition of “local enactment”—
 - (i) after paragraph (a) insert—
 - “(aa) an Act of the Scottish Parliament the Bill for which was a private Bill for the purposes of the standing orders of the Scottish Parliament,”
 - (ii) in paragraph (b), after “by”, where it second occurs, insert “the Scottish Parliament.”
- (3) In section 46 (effect of Act on other rights and duties), in paragraph (b)—
 - (a) the words from “any”, where it second occurs, to the end of that paragraph become sub-paragraph (i) of that paragraph,
 - (b) after that sub-paragraph insert—
 - “(ii) any Act of the Scottish Parliament, or”.

Environment Act 1995

- 43 (1) The Environment Act 1995 is amended as follows.
- (2) In section 27 (power of SEPA to obtain information about land), after subsection (3) add—
 - “(4) In subsection (1) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
 - (3) In section 30 (records held by SEPA), after subsection (3) add—
 - “(4) In subsection (3) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
 - (4) In section 37 (incidental general functions), after subsection (8) insert—
 - “(8A) In subsection (8) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
 - (5) In section 38 (delegation of functions by Ministers etc. to new Agencies), in subsection (10) after the definition of “eligible function” insert—
 - ““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”
 - (6) In section 40 (ministerial directions to the new Agencies), after subsection (8) add—
 - “(9) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
 - (7) In section 43 (incidental power of the new Agencies to impose charges)—
 - (a) the existing text becomes subsection (1) of that section,
 - (b) after that subsection add—
 - “(2) In subsection (1) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
 - (8) In section 53 (inquiries and other hearings), after subsection (3) add—

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- “(4) In subsections (1) and (3) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.
- (9) In section 87 (regulations for the purposes of Part 4), after subsection (9) add—
- “(10) In subsection (5)(c) above, “enactment” includes an enactment comprised in an Act of the Scottish Parliament.”.
- (10) In section 108 (powers of enforcing authorities and persons authorised by them), in subsection (15)—
- (a) in the definition of “pollution control enactments” at the end add “(including any enactments comprised in, or in instruments made under, an Act of the Scottish Parliament relating to those functions).”.
- (b) in the definition of “pollution control functions” in relation to the Scottish Ministers, after “instrument” insert “(including any enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament)”.
- (11) In section 113 (disclosure of information), in subsection (5), after the definition of “new Agency” insert—
- ““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.
- (12) In section 122 (directions), after subsection (5) insert—
- “(6) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.
- (13) In Schedule 6 (the Scottish Environment Protection Agency), in paragraph 15, after sub-paragraph (2) add—
- “(3) In sub-paragraph (1) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.
- (14) In Schedule 11 (air quality: supplemental provisions), in paragraph 5, after sub-paragraph (6) add—
- “(7) In the definition of “fixed penalty offence” in sub-paragraph (6) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.

Flood Risk Management (Scotland) Act 2009

- 44 Section 78 of the Flood Risk Management (Scotland) Act 2009 (SEPA’s power to obtain information about land) is repealed.