

SCHEDULE 5

Regulation 19(2)

AMENDMENTS TO OTHER SUBORDINATE LEGISLATION

*Further amendment of the 2000 Regulations*

- 1.—(1) The 2000 Regulations shall be amended as follows.
- (2) In regulation 2(1) (Interpretation: general)—
  - (a) before the definition of “change in operation” insert  
““the 2002 Regulations” means the Landfill (England and Wales) Regulations 2002;” and
  - (b) after the definition of “installation” insert  
““landfill” means a landfill to which the 2002 Regulations apply;”.
- (3) In regulation 4 (fit and proper person)—
  - (a) in paragraph (3) for sub-paragraphs (b) and (c) substitute—
    - (b) he has not made, or will not before commencement of the specified waste management activity make, adequate financial provision (either by way of financial security or its equivalent) to ensure that—
      - (i) the obligations (including after-care provisions) arising from the permit in relation to that activity are discharged; and
      - (ii) any closure procedures required by the permit in relation to that activity are followed;
    - (c) he and all staff engaged in carrying out that activity will not be provided with adequate professional technical development and training; or
    - (d) the management of that activity will not be in the hands of a technically competent person.”; and
  - (b) in paragraph (5)(b) for “paragraph (3)(b)” substitute “paragraph (3)(d)”.
- (4) In regulation 5 (application to the Crown)—
  - (a) in paragraph (1) after “these Regulations” insert “and the 2002 Regulations”;
  - (b) in paragraph (2)—
    - (i) after “these Regulations” insert “or the 2002 Regulations”; and
    - (ii) after “liable under regulation 32” insert “below or under regulation 17 of the 2002 Regulations”;
  - (c) in paragraph (3) after “these Regulations” insert “and the 2002 Regulations”; and
  - (d) in paragraph (4) after “these Regulations” insert “or the 2002 Regulations”.
- (5) In regulation 6(1) (notices) after “these Regulations” insert “or the 2002 Regulations”.
- (6) In regulation 10(2) (Permits: general provisions) after “regulation 12” insert “below (or regulation 8 of the 2002 Regulations)”.
- (7) In regulation 12(16) (Conditions: specific requirements) after “this regulation” insert “or regulation 8 of the 2002 Regulations”.
- (8) In regulation 17(1) and (4) (variation of conditions of permits) after “regulations 11 and 12” in both places where it occurs insert “above or regulation 8 of the 2002 Regulations”.
- (9) In regulation 27 (persons who may appeal to the Secretary of State)—
  - (a) in paragraph (1) after sub-paragraph (e) insert—

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

- “(f) a person whose request to initiate the closure procedure is not approved under regulation 15(3)(b) of the 2002 Regulations;
- (g) a person who is aggrieved by a decision under paragraph 1(6)(b) of Schedule 4 to the 2002 Regulations”;
- (b) in paragraph (2) for “or a suspension notice” substitute “a suspension notice or a closure notice under regulation 16(1) of the 2002 Regulations”;
- (c) after paragraph (8) insert—
  - “(8A) Where an appeal is brought under paragraph (1)(g) in relation to a requirement to initiate the closure procedure or under paragraph (2) in relation to a closure notice, the closure procedure shall not be initiated pending the final determination or the withdrawal of the appeal.”;
- (d) in paragraph (9) after “Regulations 11 and 12” insert “above or regulation 8 of the 2002 Regulations”;
- (e) after paragraph (11) insert—
  - “(12) Where an appeal is brought under paragraph (1)(g) in relation to which a waste management licence within the meaning of Part II of the Environmental Protection Act 1990 (“a licence”) is in force, this regulation and Schedule 8 shall apply as if:
    - (a) references to a permit were references to a licence;
    - (b) references to the operator were references to the licence holder; and
    - (c) references to an installation or mobile plant were references to a landfill.”
- (10) In regulation 28(1) and (2) (information) after “functions under these Regulations” in both places where it occurs insert “or the 2002 Regulations”.
- (11) In regulation 32(1) (offences)—
  - (a) in sub-paragraph (d) for “or a suspension notice” substitute “, a suspension notice or a closure notice under regulation 16 of the 2002 Regulations”; and
  - (b) in sub-paragraph (f)(i), after “these Regulations” insert “or the 2002 Regulations”.
- (12) In regulation 36(1) and (2) (directions to regulators) after “these Regulations” in both places where it occurs insert “or the 2002 Regulations”.
- (13) In regulation 37(1) and (2) (guidance to regulators) after “these Regulations” in both places where it occurs insert “or the 2002 Regulations”.
- (14) In Schedule 3 (prescribed date and transitional arrangements)—
  - (a) in the table in paragraph 2(2) for the entry relating to Section 5.2 substitute the following—

Section 5.2 Part A(1)	The period specified in the notice served on the operator under paragraph 1(9) of Schedule 4 to the 2002 Regulations.
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- (b) at the end of paragraph 2(11) add—
  - “(12) If—
    - (a) an activity falling within Part A(1) of Section 5.2 in Part 1 of Schedule 1 is carried out in an existing Part A installation; and
    - (b) an activity falling within some other Section in Part 1 of Schedule 1 is also carried out in the same installation (“a transitional landfill installation”),
 the preceding provisions of this paragraph shall apply as if there were two separate existing Part A installations one consisting of the part of the installation where the activity falling

within Part A(1) of Section 5.2 in Part 1 of Schedule 1 is carried out and the other consisting of the remainder of the installation.

(13) If—

- (a) the relevant period has expired for a transitional landfill installation; and
- (b) an application for a permit to operate the installation has been duly made but has not been determined at 15th June 2002, then—
  - (i) the application shall be treated as an application to operate the parts of the installation other than those where the activity falling within Part A(1) of Section 5.2 in Part 1 of Schedule 1 is carried out; and
  - (ii) the prescribed date for the remaining part of the installation shall be determined as if it were a separate installation.”

(15) After paragraph 1 of Part 1 of Schedule 4 (applications for permits) there shall be added—

“**1A.** An application for a landfill permit under regulation 10 relating to an installation where an activity falling within Part A(1) of Section 5.2 in Part 1 of Schedule 1 is carried out shall contain the following additional information—

- (a) a description of the types and total quantity of waste to be deposited;
- (b) the proposed capacity of the disposal site;
- (c) a description of the site, including its hydrogeological and geological characteristics;
- (d) the proposed operation, monitoring and control plan;
- (e) the proposed plan for the closure and after-care procedures; and
- (f) the financial provision required by virtue of regulation 4(3)(b).”.

(16) In paragraph 1 of Schedule 9 (registers),

- (a) in sub-paragraph (k) after “suspension notice” insert “or closure notice under the 2002 Regulations”;
- (b) in sub-paragraph (q) after “regulation 32(1)” insert “above or regulation 17(1) of the 2002 Regulations”;
- (c) in sub-paragraph (t) after “regulation 28(2)” insert “or a closure notice under the 2002 Regulations”;
- (d) after sub-paragraph (w) insert—
  - “(x) all particulars of any site conditioning plan or notice submitted under sub-paragraph 1(3) or (5) of Schedule 4 to the 2002 Regulations;
  - (y) all particulars of any notice requiring a landfill to close (in whole or part) issued under paragraph 1(6) of Schedule 4 to the 2002 Regulations;
  - (z) all particulars of any notification or report required before definitive closure of a landfill under regulation 15(4) of the 2002 Regulations.”.

#### *The Waste Management Licensing Regulations 1994*

**2.—(1)** The Waste Management Licensing Regulations 1994(1) shall be amended as follows.

(2) In regulation 3 (relevant offences), after sub-paragraph (o) insert—

- “(p) regulation 17(1) of the Landfill (England and Wales) Regulations 2002.”

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(1) S.I.1994/1056; relevant amending instruments are S.I. 2000/1973 and S.S.I. 2000/323.

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

- (3) In regulation 10(1) (registers),
- (a) in sub-paragraph (f) after “(whether or not in relation to a licence)” insert “or regulation 17(1) of the Landfill (England and Wales) Regulations 2002”;
  - (b) after sub-paragraph (o) insert—
    - “(p) all particulars of any site conditioning plan or notice submitted to the authority under paragraph 1(3) or (5) of Schedule 4 to the Landfill (England and Wales) Regulations 2002;
    - (q) all particulars of any notice of a decision under paragraph 1(6) of Schedule 4 to the Landfill (England and Wales) Regulations 2002;
    - (r) all particulars of any notification or report required before definitive closure of a landfill under regulation 15(4) of the Landfill (England and Wales) Regulations 2002.”.