

SCHEDULE 5

REGISTRATION OF BROKERS AND DEALERS

Interpretation

1.—(1) In this Schedule—

“the Carriers Regulations” means the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991;

“date of expiry”, in relation to a broker’s or dealer’s registration—

- (a) in a case to which sub-paragraph (2) or (3) of paragraph 7 applies, has the meaning given by that sub-paragraph, and
- (b) in any other case means the date on which the period of three years mentioned in paragraph 7(1) expires;

“notice” means notice in writing;

“registered as a carrier” means registered under regulation 6 of the Carriers Regulations, and cognate expressions shall be construed accordingly;

“relevant offence” means an offence under any of the enactments listed in regulation 3; and

“relevant period” means two months or, except in the case of an application by a person already registered for the renewal of that person’s registration, such longer period as may be agreed between the applicant and the waste regulation authority.

(2) Sub-paragraphs 3 and 4 apply where the waste regulation authority is determining for the purposes of paragraph 3(11) or 5(1) whether it is desirable for any individual to be or to continue to be authorised to arrange for the disposal or recovery of controlled waste on behalf of other persons, or to purchase and sell waste.

(3) In a case in which a person other than that individual has been convicted of a relevant offence, the waste regulation authority must have regard to whether that individual has been a party to the carrying on of a business in a manner involving the commission of relevant offences.

(4) In relation to any applicant for registration or registered broker or dealer, another relevant person must be treated for the purposes of paragraph 3(11) or 5(1) as having been convicted of a relevant offence if—

- (a) any person has been convicted of a relevant offence committed by that person in the course of that person’s employment by the applicant or registered broker or dealer or in the course of the carrying on of any business by a partnership one of the members of which was the applicant or registered broker or dealer;
- (b) a body corporate has been convicted of a relevant offence committed at a time when the applicant or registered broker or dealer was a director, manager, secretary or other similar officer of that body corporate; or
- (c) where the applicant or registered broker or dealer is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate—
 - (i) has been convicted of a relevant offence; or
 - (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a relevant offence for which that body corporate has been convicted was committed.

(5) For the purposes of this Schedule, an application for registration or for the renewal of a registration as a broker or dealer in controlled waste shall be treated as pending—

- (a) whilst it is being considered by the waste regulation authority; or

- (b) if it has been refused or the relevant period from the making of the application has expired without the applicant having been registered, whilst either—
 - (i) the period for appealing in relation to that application has not expired; or
 - (ii) the application is the subject of an appeal which has not been disposed of.
- (6) For the purposes of this Schedule, an appeal is disposed of when any of the following occurs—
 - (a) the appeal is withdrawn;
 - (b) the appellant is notified by the Scottish Ministers or the waste regulation authority that the appeal has been dismissed; or
 - (c) the waste regulation authority complies with any direction of the Scottish Ministers to renew the appellant's registration or to cancel the revocation.