

## SCHEDULE 8

### RADIOACTIVE SUBSTANCES ACTIVITIES

#### PART 5

##### Radioactivity to be disregarded for purposes of certain statutory provisions

###### Statutory provisions

**39.**—(1) No account is to be taken of any radioactivity possessed by any substance, article or premises for the purposes of—

- (a) the operation of a statutory provision to which sub-paragraph (2) applies; or
- (b) the exercise or performance of a power or duty conferred or imposed by, or for the enforcement of, such a statutory provision.

(2) This paragraph applies to—

- (a) the statutory provisions contained in, or for the time being having effect by virtue of—
  - (i) section 16 of the Clean Air Act 1993<sup>(1)</sup>;
  - (ii) the Sewerage (Scotland) Act 1968<sup>(2)</sup>;
  - (iii) the Planning (Hazardous Substances) (Scotland) Act 1997<sup>(3)</sup>;
  - (iv) section 201 of the Local Government (Scotland) Act 1973<sup>(4)</sup>;
  - (v) sections 30A and 56(1) and (2) of the Control of Pollution Act 1974<sup>(5)</sup>;
  - (vi) sections 70, 71 and 75 of the Water (Scotland) Act 1980<sup>(6)</sup>;
  - (vii) part III of the Environmental Protection Act 1990<sup>(7)</sup>;
- (b) any enactment for the time being in force whereby an enactment specified in head (a) is amended, extended or superseded; and
- (c) any statutory provision contained in, or for the time being having effect by virtue of a local enactment whether passed or made before or after the passing of these Regulations (in whatever terms the provision is expressed) in so far as—
  - (i) the management of waste or any description of waste, or of any substance which is a nuisance, or so as to be a nuisance, or of any substance which is, or so as to be, prejudicial to health, noxious, polluting or of any similar description, is prohibited or restricted by the statutory provision; or
  - (ii) a power or duty is conferred or imposed by the statutory provision on SEPA, a local authority or a relevant water authority, or on any officer of a local authority, to take any action (whether by way of legal proceedings or otherwise) for preventing, restricting or abating such management of waste as is mentioned in sub-paragraph (i).

(3) In this paragraph—

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(1) 1993 c.11.

(2) 1968 c.47.

(3) 1997 c.10.

(4) 1973 c.65.

(5) 1974 c.40. Section 30A was inserted by section 168 and paragraph 4 of schedule 23 of the Water Act 1989 (c.15).

(6) 1980 c.45.

(7) 1990 c.43.

“statutory provision” means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any Act or Act of the Scottish Parliament, whether of a general or a special nature; and

“local enactment” means—

- (a) a local or private Act;
- (b) 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; or
- (c) an order confirmed by Parliament or the Scottish Parliament or brought into operation in accordance with special parliamentary procedure.

(4) In this paragraph any reference to disposal, in relation to a statutory provision, is a reference to discharging or depositing a substance or allowing a substance to escape or to enter a stream or other place, as may be mentioned in that provision.