

Draft Regulations laid before the Scottish Parliament under section 2(8) and (9)(e) of the Pollution Prevention and Control Act 1999, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

**ENVIRONMENTAL PROTECTION
WASTE**

**The Environmental Protection Act 1990
Amendment (Scotland) Regulations 2019**

Made - - - - *2019*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 2(4) of that Act, they have consulted the Scottish Environment Protection Agency, such bodies and persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate and such other bodies or persons as they consider appropriate.

In accordance with section 2(8) and (9)(e) of that Act a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Environmental Protection Act 1990 Amendment (Scotland) Regulations 2019 and come into force on the day after the day on which they are made.

(2) These Regulations extend to Scotland only.

(1) 1999 c.24. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46), as read with section 5(3) of the Pollution Prevention and Control Act 1999 (“the 1999 Act”) and by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2008 (S.I. 2008/1776). Directive 2008/98/EC (OJ L 312, 22.11.2008, p.3) was designated for the purposes of paragraph 20 of schedule 1 of the 1999 Act by S.S.I. 2010/131. Since S.S.I. 2010/131 came into force, there have been amendments to Directive 2008/98/EC which are not relevant to these Regulations. Paragraph 20 of schedule 1 of the 1999 Act is amended with effect from exit day (as defined in section 20 of the European Union (Withdrawal) Act 2018 (c.16)) to include Directive 2008/98/EC (as last amended by Regulation (EU) 2017/997) as one of the relevant directives in connection with which provision may be made.

Amendment of the Environmental Protection Act 1990

2. In section 57 (power of Secretary of State to require waste to be accepted, treated, disposed of or delivered) of the Environmental Protection Act 1990(2)—

- (a) in subsection (1), for “the holder of any waste management licence” substitute “any waste management operator”,
- (b) after subsection (3), insert—
 - “(3A) A direction under subsection (1) may only be given for the purpose of protecting the environment or human health.”,
- (c) for subsection (8) substitute—
 - “(8) In this section—
 - (a) “authorisation” includes—
 - (i) any authorisation, permit, licence, registration or notification;
 - (ii) an exemption (whether or not subject to conditions or limitations) from a requirement to have or make an authorisation, permit, licence, registration or notification;
 - (iii) a requirement to comply with general binding rules, conditions or limitations;
 - (b) “specified” means specified in a direction under this section;
 - (c) “waste management operation” means the deposit, disposal, management, recovery or treatment of waste;
 - (d) “waste management operator” means a person—
 - (i) to whom an authorisation to carry on a waste management operation has been granted or transferred; or
 - (ii) carrying on a waste management operation in accordance with an authorisation.”.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(2) 1990 c.43. Section 57 was amended by paragraph 40(3) of schedule 3 of the Regulatory Reform (Scotland) Act 2014 (asp 3).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999.

Regulation 2 makes amendments to section 57 of the Environmental Protection Act 1990 to extend existing powers to require holders of waste management licences to accept, keep or dispose of waste to waste operators holding other types of environmental permit.

No Business and Regulatory Impact Assessment has been prepared in relation to these Regulations, as no impact upon business, charities or voluntary bodies is foreseen.