
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 324

ENVIRONMENTAL PROTECTION

The Environmental Regulation (Significant Environmental Harm) (Scotland) Order 2014

Made - - - - 19th November 2014
Laid before the Scottish
Parliament - - - - 21st November 2014
Coming into force - - 31st December 2014

The Scottish Ministers make the following Order in exercise of the powers conferred by section 40(6) (c) of the Regulatory Reform (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Environmental Regulation (Significant Environmental Harm) (Scotland) Order 2014 and comes into force on 31st December 2014.

Specified enactments

2. The enactments specified in the Schedule are specified for the purposes of section 40 of the Regulatory Reform (Scotland) Act 2014.

St Andrew's House, Edinburgh
19th November 2014

PAUL WHEELHOUSE
Authorised to sign by Scottish Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 2

Specified enactments

1. Sections 23 to 26A of the Hill Farming Act 1946 (muirburn)(2).
2. Section 16 of the Wildlife and Countryside Act 1981 (power to grant licences)(3).
3. The Nuclear Installations Act 1965(4).
4. Part II of the Food and Environment Protection Act 1985 (deposits in the sea)(5).
5. The Sludge (Use in Agriculture) Regulations 1989(6).
6. Sections 35 to 44 of the Environmental Protection Act 1990 (waste management licences)(7).
7. The Radioactive Substances Act 1993 (registrations, authorisations and enforcement notices)(8).
8. Merchant Shipping (Prevention of Oil Pollution) Regulations 1996(9).
9. The Offshore Chemicals Regulations 2002(10).
10. The Landfill (Scotland) Regulations 2003(11).
11. The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005(12).
12. Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008(13).
13. Part IV of the Marine (Scotland) Act 2010 (marine licensing)(14).
14. The Radioactive Substances Exemption (Scotland) Order 2011(15).
15. The Water Environment (Controlled Activities) (Scotland) Regulations 2011(16).
16. The Waste Management Licensing (Scotland) Regulations 2011(17).
17. The Pollution Prevention and Control (Scotland) Regulations 2012(18).
18. The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013(19).

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- (2) [1946 c.73](#); sections 23 to 26A were relevantly amended by section 58 of the Climate Change (Scotland) Act 2009 ([asp 12](#)) and section 34 of the Wildlife and Natural Environment (Scotland) Act 2011 ([asp 6](#)).
 - (3) [1981 c.69](#); section 16 was relevantly amended by sections 4(4), 9, 13(4), 17(2) and 18(2) of the Wildlife and Natural Environment (Scotland) Act 2011 ([asp 6](#)) and [S.I. 1995/2825](#).
 - (4) [1965 c.57](#).
 - (5) [1985 c.48](#).
 - (6) [S.I. 1989/1263](#), to which there are amendments not relevant to this Order.
 - (7) [1990 c.43](#); section 35 was amended by paragraph 66(2) of Schedule 22 to the Environment Act 1995 ([c.25](#)), [S.S.I. 2011/226](#), [S.S.I. 2000/323](#), and paragraph 3(2) of Schedule 3 to the Regulatory Reform (Scotland) Act 2014 ([asp 3](#)).
 - (8) [1993 c.12](#).
 - (9) [S.I. 1996/2154](#), to which there are amendments not relevant to this Order.
 - (10) [S.I. 2002/1355](#), to which there are amendments not relevant to this Order.
 - (11) [S.S.I. 2003/235](#), to which there are amendments not relevant to this Order.
 - (12) [S.I. 2005/2055](#), to which there are amendments not relevant to this Order.
 - (13) [S.I. 2008/3257](#), to which there are amendments not relevant to this Order.
 - (14) [2010 asp 5](#).
 - (15) [S.S.I. 2011/147](#).
 - (16) [S.S.I. 2011/209](#), to which there are amendments not relevant to this Order.
 - (17) [S.S.I. 2011/228](#), to which there are amendments not relevant to this Order.
 - (18) [S.S.I. 2012/360](#), to which there are amendments not relevant to this Order.
 - (19) [S.I. 2013/971](#).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies enactments under section 40(6)(c) of the Regulatory Reform (Scotland) Act 2014 (“the Act”).

Section 40(1) of the Act creates offences relating to causing significant environmental harm. Section 40(6) of the Act provides the Scottish Ministers with a power to specify enactments for the purposes of a defence to section 40(1).

The effect of this Order is that it will be a defence for a person charged with an offence under section 40(1) of the Act to show that the acts or failures alleged to constitute the offence were authorised by, or otherwise carried out in accordance with, an enactment specified in the Schedule to this Order. The enactments in the Schedule cover a range of environmental authorisations, registrations, permits or exemptions with which a person may be able to show compliance. These include:

- Landfill permits
- Offshore chemical permits
- Discharge permits
- Part A and Part B pollution prevention and control permits
- Waste management licences
- Registrations relating to use of radioactive material and mobile radioactive apparatus
- Authorisations of disposal and accumulation of radioactive waste
- Exemptions under the Radioactive Substances Exemptions (Scotland) Order 2011
- Waste management exemptions under regulation 17 of the Waste Management Licensing (Scotland) Regulations 2011
- Authorisations under the Water Environment (Controlled Activities) (Scotland) Regulations 2011, including the general binding rules.
- Licences for deposits in the sea
- Nuclear site licences
- Discharges in compliance with the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996 and Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008
- Species licences under section 16 of the Wildlife and Countryside Act 1981
- Muirburn licences