

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(1);
 - (ii) the Sewerage (Scotland) Act 1968(2);
 - (iii) the Planning (Hazardous Substances) (Scotland) Act 1997(3);
 - (iv) section 201 of the Local Government (Scotland) Act 1973(4);
 - (v) sections 30A and 56(1) and (2) of the Control of Pollution Act 1974(5);
 - (vi) sections 70, 71 and 75 of the Water (Scotland) Act 1980(6);
 - (vii) part III of the Environmental Protection Act 1990(7);
- (b) any enactment for the time being in force whereby an enactment specified in head (a) is amended, extended or superseded; and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

(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

- (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—

“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.