

*Draft Regulations laid before Parliament and the National Assembly for Wales under section 2(8) and (9)(d) and (e) of the Pollution Prevention and Control Act 1999 for approval by resolution of each House of Parliament and of the Assembly.*

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DRAFT STATUTORY INSTRUMENTS

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**2010 No. [XXXX]**

**ENVIRONMENTAL PROTECTION,  
ENGLAND AND WALES**

**The Environmental Permitting  
(England and Wales) Regulations 2010**

*Made - - - - - \*\*\*  
Coming into force in accordance with regulation 1(1)  
(b)*

These Regulations are made in exercise of the powers conferred by sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(1).

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, have in accordance with section 2(4) of that Act consulted(2)—

- (a) the Environment Agency;
- (b) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses as they consider appropriate; and
- (c) such other bodies or persons as they consider appropriate.

A draft of this instrument has been approved by a resolution of each House of Parliament and by the National Assembly for Wales pursuant to section 2(8) and (9)(d) and (e) of that Act(3).

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, make the following Regulations.

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(1) 1999 c. 24. Paragraph 9A was inserted by S.I. 2005/925. Paragraph 21A was inserted by section 38 of the Waste and Emissions Trading Act 2003 (c. 33). Paragraph 24 was amended by S.I. 2005/925. Paragraph 25 was amended by section 105(1)(a) and (b) of the Clean Neighbourhoods and Environment Act 2005 (c. 16). Functions of the Secretary of State under section 2 (except in relation to offshore oil and gas exploration and exploitation), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 3 of S.I. 2005/1958. Those functions were then transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006, c. 32.

(2) The requirement in that section to consult the bodies and persons mentioned was transferred from the National Assembly for Wales to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006, c. 32. The consultation carried out by the National Assembly for Wales has effect as if it were carried out by the Welsh Ministers by virtue of paragraph 39(3) of that Schedule to that Act.

(3) The reference in section 2(8) to approval by each House of Parliament has effect in relation to exercise of functions by the Welsh Ministers as if it were a reference to approval by the National Assembly for Wales by virtue of paragraph 33 of Schedule 11 to the Government of Wales Act 2006, c. 32.

## PART 1

### General

#### Citation, commencement, extent and application

1.—(1) These Regulations—

- (a) may be cited as the Environmental Permitting (England and Wales) Regulations 2010;
- (b) come into force on 6th April 2010, immediately after the coming into force of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009(4); and
- (c) extend to England and Wales only.

(2) These Regulations apply to the sea adjacent to England and Wales out as far as the seaward boundary of the territorial sea; and for that purpose—

- (a) the sea adjacent to England is so much of the sea adjacent to Great Britain as is not the sea adjacent to Wales or the sea adjacent to Scotland;
- (b) the sea adjacent to Wales has the same meaning as it has by virtue of section 158(3) or (4) of the Government of Wales Act 2006(5); and
- (c) the sea adjacent to Scotland has the same meaning as the internal waters and territorial sea of the United Kingdom adjacent to Scotland has by virtue of section 126(2) of the Scotland Act 1998(6).

#### Interpretation: general

2.—(1) In these Regulations—

- “the 1980 Act” means the Highways Act 1980(7);
- “the 1990 Act” means the Environmental Protection Act 1990(8);
- “the 1991 Act” means the Water Resources Act 1991(9);
- “the 1993 Act” means the Radioactive Substances Act 1993(10);
- “the 1995 Act” means the Environment Act 1995(11);
- “the 2007 Regulations” means the Environmental Permitting (England and Wales) Regulations 2007(12);
- “the 2009 Regulations” means the Groundwater (England and Wales) Regulations 2009(13);
- “the Agency” means the Environment Agency;

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(4) [S.I. 2009/3381](#).

(5) [2006 c. 32](#); the boundary between the sea adjacent to Wales and that adjacent to England is described by article 6 and Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)). By virtue of section 162 of and paragraph 26 of Schedule 11 to the 2006 Act, [S.I. 1999/672](#) continues to have effect.

(6) [1998 c. 46](#); the boundaries between waters which are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not are set out in the Scottish Adjacent Waters Boundaries Order 1999 ([S.I. 1999/1126](#)).

(7) [1980 c. 66](#).

(8) [1990 c. 43](#).

(9) [1991 c. 57](#).

(10) [1993 c. 12](#).

(11) [1995 c. 25](#).

(12) [S.I. 2007/3538](#), amended by section 88(2) of the Climate Change Act 2008 ([c. 28](#)), [S.I. 2009/890](#), [S.I. 2009/1799](#) and [S.I. 2009/3381](#).

(13) [S.I. 2009/2902](#).

“agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947;

“the Animal By-Products Regulations” means—

- (a) in relation to England, the Animal By-Products Regulations 2005(14),
- (b) in relation to Wales, the Animal By-Products (Wales) Regulations 2006(15);

“appropriate authority” means—

- (a) in relation to England, the Secretary of State, and
- (b) in relation to Wales, the Welsh Ministers;

“Category A mining waste facility” means a mining waste facility that is classified as Category A under Article 9 of the Mining Waste Directive;

“class”, in relation to a regulated facility, is to be construed in accordance with regulation 8;

“coastal waters” has the meaning given in section 104 of the 1991 Act;

“confidential information” means information that is commercially or industrially confidential in relation to any person;

“date of registration” has the meaning given in paragraph 1 of Schedule 2;

“directly associated activity”—

- (a) in relation to a SED activity, has the meaning given in paragraph 2 of Schedule 14,
- (b) in relation to any other activity falling within Part 2 of Schedule 1, has the meaning given in paragraph 1 of Part 1 of that Schedule;

“disposal”—

- (a) except in relation to a radioactive substances activity, has the meaning given in paragraph 2 of Schedule 9,
- (b) in relation to a radioactive substances activity, has the meaning given in paragraph 1 of Part 2 of Schedule 23;

“effluent” has the same meaning as in the 1991 Act;

“emission” means—

- (a) in relation to a Part A installation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land,
- (b) in relation to a Part B installation, the direct release of substances or heat from individual or diffuse sources in the installation into the air,
- (c) in relation to Part A mobile plant, the direct or indirect release of substances, vibrations, heat or noise from the mobile plant into the air, water or land,
- (d) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air,
- (e) in relation to a waste operation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land,
- (f) in relation to a mining waste operation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land, and

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(14) S.I. 2005/2347 to which there are amendments not relevant to these Regulations.

(15) S.I. 2006/1293 (W.127).

- (g) in relation to a radioactive substances activity, the direct or indirect release of radioactive material or radioactive waste;
- “enforcement notice” means a notice served under regulation 36;
- “environmental permit” has the meaning given in regulation 13(1);
- “environmental permit condition” means a condition of an environmental permit;
- “establishment” has the same meaning as in the Waste Framework Directive;
- “excluded waste operation” means any part of a waste operation not carried on at an installation or by means of Part A mobile plant or Part B mobile plant that—
- (a) is the subject of a licence under Part 2 of the Food and Environment Protection Act 1985<sup>(16)</sup> or does not require such a licence by virtue of an order under section 7 of that Act, or
- (b) relates to waste described in regulation 7(1) of the Controlled Waste Regulations 1992<sup>(17)</sup>;
- “exempt facility” has the meaning given in regulation 5;
- “exempt groundwater activity” has the meaning given in regulation 5;
- “exempt waste operation” has the meaning given in regulation 5;
- “exempt water discharge activity” has the meaning given in regulation 5;
- “exemption registration authority” has the meaning given in paragraph 2 of Schedule 2;
- “existing mining waste facility” means a mining waste facility in operation on 1st May 2008;
- “extractive waste” means waste within the meaning of Article 2(1) of the Mining Waste Directive, except where it is excluded from the scope of that Directive by Article 2(2)(a) and (b);
- “groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;
- “groundwater activity” has the meaning given in paragraph 3 of Schedule 22;
- “hazardous substance” has the meaning given in paragraph 4 of Schedule 22;
- “hazardous waste”, except in Section 5.1 of Part 2 of Schedule 1—
- (a) in relation to England, has the meaning given in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005<sup>(18)</sup>,
- (b) in relation to Wales, has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005<sup>(19)</sup>;
- “highway drain” means a drain which a highway authority or other person is entitled to keep open by virtue of section 100 of the 1980 Act;
- “household waste” has the meaning given in section 75(5) of the 1990 Act;
- “inland freshwaters” has the meaning given in section 104 of the 1991 Act;
- “installation” has the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “lake or pond” and “waters of any lake or pond” have the same meaning as in section 104 of the 1991 Act;
- “landfill” has the meaning given in paragraph 2(1)(d) of Schedule 10;

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<sup>(16)</sup> 1985 c. 48.

<sup>(17)</sup> S.I. 1992/558; relevant amending instruments are S.I. 1993/556, 1994/1056, 1995/228 and 2006/937.

<sup>(18)</sup> S.I. 2005/894.

<sup>(19)</sup> S.I. 2005/1806 (W. 138).

- “landfill closure notice” means a closure notice served under paragraph 10 of Schedule 10;
- “local authority” has the meaning given in regulation 6;
- “mining waste facility” has the meaning given in paragraph 2(1) of Schedule 20;
- “mining waste facility closure notice” means a closure notice served under paragraph 10 of Schedule 20;
- “mining waste operation” has the meaning given in paragraph 2(1) of Schedule 20;
- “mobile plant” means any of the following—
- (a) Part A mobile plant,
  - (b) Part B mobile plant,
  - (c) waste mobile plant;
- “mobile radioactive apparatus” has the meaning given in paragraph 1 of Part 2 of Schedule 23;
- “net rated thermal input” has the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “non-hazardous waste”, except in Section 5.1 of Part 2 of Schedule 1, means waste which is not hazardous waste;
- “nuclear site”, in relation to a radioactive substances activity, has the meaning given in paragraph 1 of Part 2 of Schedule 23;
- “operate a regulated facility” and “operator” have the meaning given in regulation 7;
- “Part A activity” and “Part B activity” have the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “Part A installation”, “Part A(1) installation”, “Part A(2) installation” and “Part B installation” have the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “Part A mobile plant”, “Part A(1) mobile plant”, “Part A(2) mobile plant” and “Part B mobile plant” have the meaning given in paragraph 1 of Part 1 of Schedule 1;
- “pollutant” means any substance liable to cause pollution;
- “pollution”, in relation to a water discharge activity or groundwater activity, means the direct or indirect introduction, as a result of human activity, of substances or heat into the air, water or land which may—
- (a) be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,
  - (b) result in damage to material property, or
  - (c) impair or interfere with amenities or other legitimate uses of the environment;
- “pollution”, other than in relation to a water discharge activity or groundwater activity, means any emission as a result of human activity which may—
- (a) be harmful to human health or the quality of the environment,
  - (b) cause offence to a human sense,
  - (c) result in damage to material property, or
  - (d) impair or interfere with amenities or other legitimate uses of the environment;
- “prescribed statutory provision” means—
- (a) Part 2 of the Food and Environment Protection Act 1985,
  - (b) section 163 of the 1991 Act,
  - (c) section 165 of the Water Industry Act 1991(20), or

- (d) any local statutory provision (within the meaning given in section 221 of the 1991 Act) or statutory order which expressly confers power to discharge effluent into water;
- “prohibition notice” means a notice served under paragraph 9 of Schedule 22;
- “proposed transferee” means the person to whom an operator proposes to transfer an environmental permit in whole or in part;
- “public participation provisions” means regulations 26, 29 and 59, and paragraphs 6 and 8 of Part 1 of Schedule 5;
- “public register” has the meaning given in regulation 46(1);
- “radioactive material” has the meaning given in paragraph 2 of Part 2 of Schedule 23;
- “radioactive substances activity” has the meaning given in paragraph 5 of Part 2 of Schedule 23;
- “radioactive waste” has the meaning given in paragraph 4 of Part 2 of Schedule 23;
- “recovery” has the meaning given in paragraph 2 of Schedule 9;
- “register” and “registered”, in relation to an exempt facility, have the meaning given in paragraph 1 of Schedule 2;
- “regulated facility” has the meaning given in regulation 8;
- “regulator” means the authority on whom functions are conferred by regulation 32, or by a direction under regulation 33;
- “regulator-initiated variation” means the variation of an environmental permit on the initiative of the regulator under regulation 20(1);
- “relevant function” has the meaning given in regulation 9;
- “relevant territorial waters” has the meaning given in section 104(1) of the 1991 Act;
- “revocation notice” means a notice served under regulation 22(3);
- “rule-making authority” means—
- (a) in relation to a regulated facility for which a local authority is the regulator, the appropriate authority, and
  - (b) in relation to any other regulated facility, the Agency;
- “SED activity” means an activity falling within Section 7 of Part 2 of Schedule 1;
- “SED installation” has the meaning given in Schedule 14;
- “sewage effluent” has the meaning given in section 221 of the 1991 Act;
- “sewer” has the same meaning as in the 1991 Act;
- “standard facility” means a regulated facility described in standard rules published under regulation 26(5);
- “stand-alone groundwater activity” means a groundwater activity that is not carried on as part of the operation of a regulated facility of another class;
- “stand-alone water discharge activity” means a water discharge activity that is not carried on as part of the operation of a regulated facility of another class;
- “statutory order” means any order, byelaw, scheme or award made under any enactment, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;
- “suspension notice” means a notice served under regulation 37;
- “trade effluent” has the meaning given in section 221 of the 1991 Act;

“undertaking”, except in relation to a radioactive substances activity, has the same meaning as in the Waste Framework Directive;

“vessel”, except in Schedule 1, Part 2, Chapter 2, Section 2.2 and in Schedule 23, Part 2, paragraph 7, has the same meaning as in the 1991 Act;

“waste”, except where otherwise defined, means anything that—

- (a) is waste for the purposes of the Waste Framework Directive, and
- (b) is not excluded from the scope of that Directive by Article 2(1) of that Directive;

“waste battery or accumulator” has the meaning given in Article 3(7) of the Batteries Directive, but does not include any waste which is excluded from the scope of that Directive by Article 2(2);

“waste mobile plant” means plant that is—

- (a) designed to move or be moved whether on roads or other land,
- (b) used to carry on a waste operation, and
- (c) not an installation, Part A mobile plant or Part B mobile plant;

“waste oil” means mineral-based lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, mineral lubricating oil, oil for turbines and hydraulic oil;

“waste operation” means recovery or disposal of waste;

“water discharge activity” has the meaning given in paragraph 3 of Schedule 21;

“WEEE” has the meaning given in Article 3(b) of the WEEE Directive; and

“working day” means a day other than—

- (a) a Saturday or a Sunday,
  - (b) Good Friday or Christmas Day, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(21).
- (2) For the purpose of calculating a period of time from one event to another event, that period—
- (a) starts on the day on which the first event occurs; and
  - (b) ends on the day on which the second event occurs.
- (3) In these Regulations, a power to give a direction includes a power to vary or revoke it.

### Interpretation: Directives

#### 3. In these Regulations—

“the Batteries Directive” means Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive [91/157/EEC](#)(22);

“the End-of-Life Vehicles Directive” means Directive [2000/53/EC](#) of the European Parliament and of the Council on end-of-life vehicles(23);

“the IPPC Directive” means Directive [2008/1/EC](#) of the European Parliament and of the Council concerning integrated pollution prevention and control(24);

(21) [1971 c. 80](#).

(22) OJ No L 266, 26.9.2006, p 1, as last amended by Directive [2008/103/EC](#) of the European Parliament and of the Council (OJ No L 327, 5.12.2008, p 7). There is a relevant corrigendum, OJ No L 311, 10.11.2006, p 58.

(23) OJ No L 269, 21.10.2000, p 34, as last amended by Commission Decision [2008/689/EC](#) (OJ No L 225, 23.8.2008, p 10).

(24) OJ No L 24, 29.1.2008, p 8.

“the Landfill Directive” means Council Directive [1999/31/EC](#) on the landfill of waste(25), as read with Council Decision [2003/33/EC](#)(26) establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of, and Annex II to, Directive [1999/31/EC](#);

“the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries and amending Directive [2004/35/EC](#)(27);

“the Waste Framework Directive” means Directive [2006/12/EC](#) of the European Parliament and of the Council on waste(28);

“the Waste Incineration Directive” means Directive [2000/76/EC](#) of the European Parliament and of the Council on the incineration of waste(29);

“the Water Framework Directive” means Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(30); and

“the WEEE Directive” means Directive [2002/96/EC](#) of the European Parliament and of the Council on waste electrical and electronic equipment(31).

## Exempt facilities

4. Schedule 2 (exempt facilities: general) has effect.

## Interpretation: exempt facilities

- 5.—(1) In these Regulations—

“exempt facility” means—

- (a) an exempt waste operation,
- (b) an exempt water discharge activity, or
- (c) an exempt groundwater activity;

“exempt groundwater activity” means a stand-alone groundwater activity that meets the requirements of paragraph 5 of Schedule 2;

“exempt waste operation” means a waste operation—

- (a) that—
  - (i) is not carried on at an installation, or
  - (ii) is an activity that falls within Section 5.3 or Section 5.4 of Part 2 of Schedule 1 and is carried on at an installation, and
- (b) that meets the requirements of paragraph 3(1) of Schedule 2; and

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(25) OJ No L 182, 16.7.1999, p 1, as last amended by Directive [2008/98/EC](#) of the European Parliament and of the Council (OJ No L 312, 22.11.2008, p 3).

(26) OJ No L 11, 16.1.2003, p 27.

(27) OJ No L 102, 11.4.2006, p 15, as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).

(28) OJ No L 114, 27.4.2006, p 9, as last amended by Directive [2009/31/EC](#) of the European Parliament and of the Council (OJ No L 140, 5.6.2009, p 114).

(29) OJ No L 332, 28.12.2000, p 91, as amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council (OJ No L 311, 21.11.2008, p 1). There is a relevant corrigendum, OJ No L 145, 31.5.2001, p 52.

(30) O.J. No L 327, 22.12.2000, p 1, as last amended by Directive [2009/31/EC](#) of the European Parliament and of the Council on the geological storage of carbon dioxide (OJ No L 140, 5.6.2009, p 114).

(31) OJ No L 37, 13.2.2003, p 24, as last amended by Directive [2008/112/EC](#) of the European Parliament and of the Council (OJ No L 345, 23.12.2008, p 68).

“exempt water discharge activity” means a stand-alone water discharge activity that meets the requirements of paragraph 4 of Schedule 2.

(2) In these Regulations, in relation to an exempt waste operation, a reference to any of paragraphs U1 to U16, T1 to T33, D1 to D8 or S1 to S3 has the meaning given in paragraph 1(8) of Chapter 1 of Part 1 of Schedule 3.

### **Interpretation: local authority**

6.—(1) In these Regulations, “local authority” means—

- (a) in England outside Greater London—
  - (i) a district council,
  - (ii) where there is a county council but no district council, the county council, or
  - (iii) the Council of the Isles of Scilly;
- (b) in Greater London—
  - (i) the council of a London borough,
  - (ii) the Common Council of the City of London,
  - (iii) the Sub-Treasurer of the Inner Temple, or
  - (iv) the Under-Treasurer of the Middle Temple;
- (c) in Wales—
  - (i) a county council, or
  - (ii) a county borough council.

(2) Where a port health authority has been constituted for a port health district by an order under section 2 of the Public Health (Control of Disease) Act 1984(32) that authority is the local authority for the area covered by that district in relation to a Part B installation.

### **Interpretation: operate a regulated facility and operator**

7. In these Regulations—

“operate a regulated facility” means—

- (a) operate an installation or mobile plant, or
- (b) carry on a waste operation, mining waste operation, radioactive substances activity, water discharge activity or groundwater activity; and

“operator”, in relation to a regulated facility, means—

- (a) the person who has control over the operation of the regulated facility,
- (b) if the regulated facility has not yet been put into operation, the person who will have control over the regulated facility when it is put into operation, or
- (c) if a regulated facility authorised by an environmental permit ceases to be in operation, the person who holds the environmental permit.

### **Interpretation: regulated facility and class of regulated facility**

8.—(1) In these Regulations, “regulated facility” means any of the following—

- (a) an installation,
- (b) mobile plant,

- (c) a waste operation,
  - (d) a mining waste operation,
  - (e) a radioactive substances activity,
  - (f) a water discharge activity,
  - (g) a groundwater activity.
- (2) But the following are not regulated facilities—
- (a) an exempt facility,
  - (b) an excluded waste operation,
  - (c) the disposal or recovery of household waste from a domestic property within the curtilage of that property by a person other than an establishment or undertaking.
- (3) In these Regulations, a reference to a class of regulated facility is a reference to a class in paragraph (1).
- (4) A regulated facility of any of the following classes may be carried on as part of the operation of a regulated facility of another class—
- (a) waste operation;
  - (b) mining waste operation;
  - (c) water discharge activity;
  - (d) groundwater activity.

#### **Interpretation: relevant function**

9. In these Regulations, “relevant function” means any of the following functions—
- (a) determining an application—
    - (i) for the grant of an environmental permit under regulation 13(1),
    - (ii) for the variation of an environmental permit under regulation 20(1),
    - (iii) for the transfer of an environmental permit in whole or in part under regulation 21(1),
    - (iv) for the surrender of an environmental permit in whole or in part under regulation 25(2),
  - (b) varying an environmental permit—
    - (i) on the initiative of the regulator under regulation 20(1),
    - (ii) in relation to a transfer in whole or in part under regulation 21(1) or (3),
    - (iii) in relation to a partial revocation under regulation 22(1),
    - (iv) in relation to a partial surrender under regulation 24(2) or 25(2),
  - (c) revoking an environmental permit in whole or in part under regulation 22(1),
  - (d) exercising the power to serve a notice under Schedule 21 or 22 requiring a person to hold an environmental permit,
  - (e) exercising the following powers or duty—
    - (i) any power in relation to standard rules in Chapter 4 of Part 2,
    - (ii) the duty to vary an environmental permit after revocation of standard rules in regulation 30(3),
  - (f) exercising any of the following powers relating to enforcement—
    - (i) the power to serve an enforcement notice,

- (ii) the power to serve a suspension notice,
- (iii) the power to serve a prohibition notice,
- (iv) the power to serve a landfill closure notice,
- (v) the power to serve a mining waste facility closure notice.

### **Giving notices, notifications and directions, and the submission of forms**

**10.**—(1) In this regulation, “instrument” means a notice, notification, certificate, direction or form under these Regulations.

(2) An instrument must be in writing.

(3) An instrument may be served on or given to a person by—

- (a) personal delivery;
- (b) leaving it at the person’s proper address; or
- (c) sending it by post or electronic means to the person’s proper address.

(4) In the case of a body corporate, an instrument may be served on or given to the secretary or clerk.

(5) In the case of a partnership, an instrument may be served on or given to a partner or a person having control or management of the partnership business.

(6) For the purposes of this regulation, “proper address” means—

- (a) in the case of a body corporate or their secretary or clerk—
  - (i) the registered or principal office of that body, or
  - (ii) the email address of the secretary or clerk,
- (b) in the case of a partnership or a partner or person having control or management of the partnership business—
  - (i) the principal office of the partnership, or
  - (ii) the email address of a partner or a person having that control or management,
- (c) in any other case, a person’s last known address, which includes an email address.

(7) For the purposes of paragraph (6), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.

(8) A form provided by the regulator which specifies an electronic address for submission may be submitted electronically to that address.

(9) A form provided by the regulator for completion and submission through a website may be submitted through that site.

## **PART 2**

### **Environmental Permits**

#### **CHAPTER 1**

#### **Application to the Crown and requirement for an environmental permit**

#### **Application to the Crown**

**11.** Schedule 4 (application of these Regulations to the Crown) has effect.

### **Requirement for environmental permit**

12.—(1) A person must not, except under and to the extent authorised by an environmental permit —

- (a) operate a regulated facility; or
- (b) cause or knowingly permit a water discharge activity or groundwater activity.

(2) Paragraph (1)(b) does not apply if the water discharge activity or groundwater activity is an exempt facility.

(3) Where a person (“A”) would, except for this paragraph, require an environmental permit to receive radioactive waste from another person (“B”) for the purpose of disposing of that waste, A does not require a permit for that receipt where—

- (a) B holds an environmental permit which allows B to dispose of the waste to A; and
- (b) the waste is disposed of by A in accordance with that permit.

## **CHAPTER 2**

### **Grant of an environmental permit**

#### **Grant of an environmental permit**

13.—(1) On the application of an operator, the regulator may grant the operator a permit (an “environmental permit”) authorising—

- (a) the operation of a regulated facility; and
- (b) that operator as the person authorised to operate that regulated facility.

(2) Regulation 17 applies in relation to the grant of a single permit authorising the operation of more than one regulated facility by the same operator.

(3) Part 1 of Schedule 5 applies in relation to an application for the grant of an environmental permit.

#### **Content and form of an environmental permit**

14.—(1) An environmental permit must specify—

- (a) the regulated facility whose operation it authorises; and
- (b) the operator of that regulated facility.

(2) An environmental permit that authorises the operation of a regulated facility (“regulated facility A”) need not specify any regulated facility of another class that is carried on as part of the operation of regulated facility A.

(3) An environmental permit may be in electronic form.

(4) An environmental permit must include a map, plan or other description of the site showing the geographical extent of the site of the regulated facility.

(5) But if there is more than one regulated facility on the site, the map, plan or other description need show only the combined extent of all the facilities.

(6) Paragraphs (4) and (5) do not apply to an environmental permit authorising—

- (a) the operation of mobile plant; or
- (b) the carrying on of a radioactive substances activity described in paragraph 5(5) of Part 2 of Schedule 23.

### **Conditions in relation to certain land**

15.—(1) Conditions in an environmental permit may require the operator to carry out works or do other things in relation to land which the operator is not entitled to do without obtaining the consent of another person.

(2) If an environmental permit contains such a condition, the person whose consent is required must grant the operator such rights as are necessary to enable the operator to comply with the condition.

(3) Part 2 of Schedule 5 applies where such rights are granted.

### **Mobile plant operating on the site of another regulated facility: conflict of permit conditions**

16. If—

- (a) an environmental permit (“permit A”) authorises the operation of mobile plant on the site of another regulated facility the operation of which is authorised under a separate environmental permit (“permit B”); and
- (b) there is an inconsistency between the requirements imposed by permit A and those imposed by permit B,

the requirements imposed by permit B prevail.

### **Single site permits etc.**

17.—(1) Except as otherwise provided by this regulation, a regulator may not authorise the operation of more than one regulated facility under a single environmental permit.

(2) The regulator may authorise, under a single environmental permit, the operation by the same operator—

- (a) of more than one mobile plant;
- (b) of more than one standard facility (other than a standard facility to which the IPPC Directive applies); or
- (c) subject to paragraph (3) and (4), of more than one regulated facility on the same site.

(3) If one of the regulated facilities mentioned in paragraph (2)(c) is a radioactive substances activity described in paragraph 5(5) of Part 2 of Schedule 23, the permit may authorise the operation of that regulated facility on more than one site.

(4) If a groundwater activity is carried on as part of a radioactive substances activity—

- (a) the regulator must authorise the carrying on of the groundwater activity under the same environmental permit that authorises the carrying on of the radioactive substances activity; and
- (b) a separate permit must not be granted in relation to the groundwater activity.

### **Consolidation of an environmental permit**

18.—(1) Paragraph (2) applies if the same operator is authorised by more than one environmental permit to operate—

- (a) more than one mobile plant;
- (b) more than one standard facility, not being a standard facility to which the IPPC Directive applies; or
- (c) more than one regulated facility on the same site.

(2) The regulator may replace the environmental permits (“old permits”) with a consolidated environmental permit—

- (a) applying to the same regulated facilities; and
- (b) subject to the same conditions that applied to the old permits, but varied as the regulator thinks fit.

(3) The regulator may replace a consolidated environmental permit (“old permit”) with 2 or more environmental permits (“new permits”).

(4) Each of the new permits is subject to whichever conditions of the old permit are relevant, varied as the regulator thinks fit.

(5) The regulator may replace a single environmental permit (“old permit”) which has been varied with a consolidated environmental permit subject to the same conditions that applied to the old permit.

(6) A variation made by a regulator under this regulation—

- (a) is taken to be a regulator-initiated variation under regulation 20(1); and
- (b) may only be made in accordance with regulation 20.

(7) Paragraphs 17, 18 and 19 of Part 1 of Schedule 5 apply in relation to the decision to make a regulator-initiated variation and the notification of such a decision.

### **Subsistence of an environmental permit**

**19.** Once granted an environmental permit continues in force until—

- (a) it is revoked in whole in accordance with regulation 22;
- (b) it is surrendered in whole in accordance with—
  - (i) regulation 24, or
  - (ii) regulation 25 and Part 1 of Schedule 5; or
- (c) it is replaced with a consolidated permit in accordance with—
  - (i) regulation 18(2),
  - (ii) regulation 22(5),
  - (iii) paragraph 19(2) of Part 1 of Schedule 5.

## **CHAPTER 3**

### Variation, transfer, revocation and surrender of an environmental permit

#### **Variation of an environmental permit**

**20.**—(1) The regulator may vary an environmental permit on the application of the operator or on its own initiative.

(2) A variation under this regulation must not reduce the extent of the site of a regulated facility.

(3) Paragraph (2) does not apply if the variation relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description—

- (a) a Part B installation, except to the extent that it relates to a waste operation;
- (b) a stand-alone water discharge activity or stand-alone groundwater activity.

(4) With respect to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone water discharge activity, a regulator must not, without the agreement of the operator, on its own initiative—

- (a) within 4 years after the grant of the permit, vary any condition of the permit that relates to the water discharge activity; or
  - (b) within 4 years after the variation of a condition of the permit that relates to the water discharge activity, further vary that condition.
- (5) Paragraph (4) does not apply if—
- (a) the regulated facility is a standard facility; or
  - (b) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in order to comply with—
    - (i) an obligation of the United Kingdom under the Community Treaties; or
    - (ii) a direction given by the appropriate authority under regulation 61.
- (6) Part 1 of Schedule 5 applies in relation to an application for the variation of an environmental permit or a proposal to vary an environmental permit on the initiative of the regulator under paragraph (1).

### **Transfer of an environmental permit**

**21.**—(1) The regulator may, on the joint application of an operator and a proposed transferee, transfer to the proposed transferee an environmental permit or any part of an environmental permit.

(2) Part 1 of Schedule 5 applies in relation to an application for the transfer of an environmental permit in whole or in part.

(3) Paragraph (1) does not apply to an environmental permit (or any part of a permit) that authorises the carrying on of a stand-alone water discharge activity or stand-alone groundwater activity.

(4) The regulator may, on the joint notification of an operator and a proposed transferee, transfer to the proposed transferee any part of an environmental permit (or if applicable, the whole permit) to which paragraph (1) does not apply.

(5) A notification must—

- (a) be made on the form provided by the regulator;
- (b) include such information as is specified on the form; and
- (c) specify a date on which the transfer is to take place, which must be not less than 20 working days after the date on which the notification is given.

(6) A transfer following a notification takes effect on the date specified in the notification.

(7) If—

- (a) an enforcement notice is in force in respect of an environmental permit; and
- (b) the permit is transferred to another person, either in whole or in part,

the duty to comply with the enforcement notice is also transferred to the other person to the extent that it relates to the permit or part transferred.

### **Revocation of an environmental permit: general**

**22.**—(1) The regulator may revoke an environmental permit in whole or in part.

(2) If the regulator revokes a permit in part, it may vary the permit conditions to the extent that it considers necessary to take account of the revocation.

(3) Where the regulator decides to revoke an environmental permit it must serve a notice on the operator specifying—

- (a) the reasons for the revocation;

- (b) in the case of a partial revocation—
    - (i) the extent to which the environmental permit is being revoked, and
    - (ii) any variation to the conditions of the environmental permit; and
  - (c) the date on which the revocation will take place, which must not be less than 20 working days after the date on which the notice is served.
- (4) Unless the regulator withdraws a revocation notice, an environmental permit ceases to have effect on the date specified in the notice—
- (a) in the case of a revocation in whole, entirely; or
  - (b) in the case of a partial revocation, to the extent of the part revoked.
- (5) In the case of a partial revocation, the regulator may replace the environmental permit with a consolidated environmental permit reflecting the variation.
- (6) Any variation made by a regulator under this regulation—
- (a) is taken to be a regulator-initiated variation under regulation 20(1); and
  - (b) may only be made in accordance with regulation 20.
- (7) Paragraphs 17, 18 and 19 of Part 1 of Schedule 5 apply in relation to the decision to make a regulator-initiated variation and the notification of such a decision.
- (8) If a waste operation, stand-alone water discharge activity or stand-alone groundwater activity is registered as an exempt facility, that part of an environmental permit (or if applicable, the whole permit) that relates to the waste operation, water discharge activity or groundwater activity is revoked on the date of registration.

### **Revocation of an environmental permit: steps to be taken after the revocation takes effect**

- 23.**—(1) This regulation applies where the regulator has decided to revoke an environmental permit, or part of a permit, and the regulator considers that, after the revocation takes effect, it is appropriate for the operator to take steps—
- (a) to avoid a pollution risk resulting from the operation of the regulated facility; or
  - (b) to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation.
- (2) But this regulation does not apply if the revocation relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description—
- (a) a Part B installation, except to the extent that it relates to a waste operation;
  - (b) mobile plant;
  - (c) a stand-alone water discharge activity or stand-alone groundwater activity.
- (3) If the operator is already required to take the steps mentioned in paragraph (1) under the environmental permit, the revocation notice must specify the regulator’s view under paragraph (1) and state that paragraph (4) applies.
- (4) The environmental permit continues to have effect to the extent that it requires the steps to be taken until the regulator issues a certificate stating that it is satisfied that all the steps have been taken.
- (5) If the operator is not already required to take the steps mentioned in paragraph (1) under the environmental permit, the revocation notice must specify the regulator’s view under paragraph (1) and the steps to be taken.
- (6) If paragraph (5) applies, unless the regulator issues a certificate stating that it is satisfied that all the steps have been taken, the steps must be treated as if they were conditions of an environmental permit for the purposes of—

- (a) regulation 20;
- (b) regulation 36; and
- (c) the offence in regulation 38(2).

#### **Notification of the surrender of an environmental permit**

24.—(1) This regulation applies to any part of an environmental permit (or if applicable, the whole permit) that authorises the operation of a regulated facility of the following description or class—

- (a) a Part B installation, except to the extent that it relates to a waste operation;
- (b) mobile plant;
- (c) a stand-alone water discharge activity or stand-alone groundwater activity.

(2) By notification to the regulator, the operator may surrender that part of an environmental permit (or if applicable, the whole permit) to which this regulation applies.

(3) A notification must—

- (a) be made on the form provided by the regulator;
- (b) include such information as is specified in the form; and
- (c) specify the date on which the surrender is to take place, which must not be less than 20 working days after the date on which the notification is given.

(4) Subject to paragraph (7), the environmental permit ceases to have effect on the date specified in the notification to the extent specified there.

(5) Paragraphs (6) and (7) apply to a partial surrender if the regulator considers it necessary to vary the environmental permit conditions to take account of that surrender.

(6) The regulator must serve a notice on the operator specifying—

- (a) the regulator's view under paragraph (5);
- (b) the variation; and
- (c) the date the variation takes effect.

(7) If the date specified in the notice under paragraph (6)(c) is later than the date specified in the notification under paragraph (3)(c), the variation and partial surrender both take effect on the later date.

#### **Application for the surrender of an environmental permit**

25.—(1) This regulation applies to an environmental permit, or any part of a permit, to which regulation 24 does not apply.

(2) By application to the regulator, an operator may surrender an environmental permit, or that part of a permit, to which this regulation applies.

(3) Part 1 of Schedule 5 applies in relation to an application for the surrender of an environmental permit in whole or in part.

### CHAPTER 4

#### Standard rules

#### **Preparation and revision of standard rules**

26.—(1) A rule-making authority may prepare standard rules for such regulated facilities as are described in those rules.

- (2) In preparing or revising standard rules the authority must consult—
- (a) such persons as it considers are representative of the interests of communities likely to be affected by, or persons operating, the regulated facilities described in the rules; and
  - (b) such other persons as it considers are likely to be affected by or have an interest in the rules.
- (3) But the duty in paragraph (2) does not apply in relation to revisions which comprise only minor administrative changes.
- (4) The authority must keep under review all standard rules published by it under this regulation and revise those rules when it considers necessary.
- (5) The authority must publish on its website all standard rules prepared or revised by it under this regulation.
- (6) The duty in paragraph (2) may be satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

### **Standard rules as conditions of an environmental permit**

**27.**—(1) This regulation applies where a rule-making authority has published standard rules under regulation 26(5).

(2) At the request of the operator of a standard facility the regulator may include in the environmental permit authorising the operation of the facility a term providing that the relevant rules are conditions of the permit.

(3) If the regulator includes such a term, the relevant rules are conditions of the permit for the purposes of these Regulations, but there is no right of appeal under regulation 31 in relation to such a condition or the relevant rules.

(4) In this regulation, “relevant rules” means the standard rules which apply to the standard facility.

### **Notification of revisions of standard rules**

**28.**—(1) This regulation applies where the rule-making authority proposes to revise standard rules under regulation 26(4).

(2) Before the rule-making authority complies with regulation 26(5), the regulator must notify any operator who holds a relevant environmental permit—

- (a) of the proposed revisions;
- (b) of the date when the revised rules will be published, which must not be less than 3 months after the date the notification is served; and
- (c) that on this date the revised rules will become conditions of the environmental permit.

(3) But the authority may publish the revised rules before 3 months after the date the notification is served if the revisions comprise only minor administrative changes.

(4) The revised rules take effect when published under regulation 26(5).

(5) In this regulation, “relevant environmental permit” means an environmental permit which will be affected by the proposed revisions.

### **Revocation of standard rules**

**29.** The rule-making authority may revoke standard rules, but before doing so must consult the persons referred to in regulation 26(2).

### **Variation of an environmental permit: revocation of standard rules**

**30.**—(1) This regulation applies to an environmental permit which includes a standard rules term if the standard rules applying by virtue of that term have been revoked by the regulator.

(2) The revoked rules continue to have effect until the regulator varies the permit under paragraph (3).

(3) As soon as reasonably practicable after the revocation of the rules, the regulator must vary the permit so as to—

- (a) remove the standard rules term; and
- (b) include such alternative conditions as it considers appropriate.

(4) In this regulation, “standard rules term” means a term of the type mentioned in regulation 27(2).

## CHAPTER 5

### Appeals in relation to environmental permits

#### **Appeals to an appropriate authority**

**31.**—(1) In this regulation, “application” has the meaning given in paragraph 1 of Part 1 of Schedule 5.

(2) Subject to paragraphs (4) and (5), the following persons may appeal to the appropriate authority—

- (a) a person whose application is refused;
- (b) a person who is aggrieved by a decision to impose an environmental permit condition following that person’s application;
- (c) a person who is aggrieved by a decision to impose a condition on an environmental permit held by that person—
  - (i) as a result of a regulator-initiated variation, or
  - (ii) to take account of the partial transfer, partial revocation or partial surrender of that environmental permit;
- (d) a person who is aggrieved by the deemed withdrawal under paragraph 4(2) of Part 1 of Schedule 5 of that person’s duly-made application;
- (e) a person who is aggrieved by a decision relating to an environmental permit held by that person not to authorise the closure procedure mentioned in—
  - (i) Article 13 of the Landfill Directive after a request referred to in Article 13(a)(ii) of that Directive, or
  - (ii) Article 12 of the Mining Waste Directive after a request referred to in Article 12(2)(b) of that Directive;
- (f) a person on whom an enforcement notice, a revocation notice, suspension notice, prohibition notice, landfill closure notice or mining waste facility closure notice is served.

(3) In paragraph (2), “person” includes a person to whom an environmental permit is transferred after—

- (a) an application or a decision mentioned in that paragraph is made, or
- (b) a notice mentioned in that paragraph is served.

(4) Paragraph (2) does not apply where—

- (a) the relevant decision or notice implements a direction of the appropriate authority given under—
    - (i) regulation 61(1),
    - (ii) regulation 62(1) or (6), or
    - (iii) paragraph (7) of this regulation; or
  - (b) an application for the grant or variation of an environmental permit in relation to a Category A mining waste facility that is an existing mining waste facility is refused pursuant to paragraph 14(2) of Schedule 20.
- (5) Paragraph (2)(f) does not apply to the extent that a revocation notice or suspension notice is served because of a failure to pay a charge prescribed in a scheme made under regulation 65(1) in respect of the subsistence of an environmental permit.
- (6) On the determination of an appeal in respect of a notice, the appropriate authority—
- (a) may quash or affirm the notice; and
  - (b) if it affirms the notice, may affirm it, with or without modifications.
- (7) When determining an appeal in respect of a decision, the appropriate authority has the same powers as the regulator had when making the decision.
- (8) On the determination of an appeal in respect of a decision, unless the appropriate authority affirms the decision the authority must direct the regulator to give effect to its determination when sending a copy of it to the regulator under paragraph 6(2)(a) of Schedule 6.
- (9) Except as otherwise provided by this regulation—
- (a) an appeal does not have the effect of suspending a decision or notice; but
  - (b) if an appeal is brought against a revocation notice, the notice does not take effect until the final determination or the withdrawal of the appeal.
- (10) Subject to paragraph (13), paragraph (9)(b) does not apply if the revocation notice—
- (a) relates to any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a stand-alone water discharge activity; and
  - (b) states that, in the opinion of the regulator, the revocation is necessary for the purpose of preventing or, where that is not practicable, minimising, pollution.
- (11) If an appeal is brought under paragraph (2)(c)(i) in respect of a decision to impose a condition on an environmental permit in relation to a stand-alone water discharge activity, the imposition of the environmental permit condition does not take effect, subject to paragraphs (12) and (13), until the final determination or the withdrawal of the appeal.
- (12) Paragraph (11) does not apply if the notice effecting the decision includes a statement that, in the opinion of the regulator, the imposition of the condition is necessary for the purpose of preventing or, where that is not practicable, minimising, pollution.
- (13) If the appropriate authority, on the application of the appellant, determines that the regulator acted unreasonably in excluding the application of paragraph (9)(b) or (11), then—
- (a) if the appeal is still pending at the end of the day on which the determination is made, paragraph (9)(b) or (11) applies to the decision or notice from the end of that day;
  - (b) the appellant is entitled to recover compensation from the regulator in respect of any loss suffered in consequence of that exclusion; and
  - (c) any dispute as to a person's entitlement to such compensation or as to the amount of it is to be determined by a single arbitrator appointed—
    - (i) by agreement between the parties to the dispute; or
    - (ii) in the absence of agreement, by the appropriate authority.

(14) Schedule 6 (appeals to the appropriate authority) has effect in relation to the making and determination of appeals under this regulation.

## PART 3

### Discharge of functions in relation to a regulated facility

#### Discharge of functions

**32.**—(1) Subject to regulation 33, functions in relation to a regulated facility, other than a regulated facility mentioned in paragraph (2), are exercisable by the Agency.

(2) Functions in relation to a regulated facility of the following description or class are exercisable by the local authority in whose area the regulated facility is or will be operated—

- (a) a Part A(2) installation or Part A(2) mobile plant;
- (b) a Part B installation or Part B mobile plant, but not in respect of any of the following regulated facilities carried on at the installation or by means of mobile plant—
  - (i) a waste operation (unless it is a Part B activity),
  - (ii) a mining waste operation,
  - (iii) a water discharge activity,
  - (iv) a groundwater activity.

(3) If the principal place of business of the operator of Part A(2) mobile plant or Part B mobile plant is in England and Wales, functions in relation to that regulated facility are exercisable by the local authority in whose area the place of business is.

(4) If the principal place of business of the operator of Part A(2) mobile plant or Part B mobile plant is not in England and Wales, functions in relation to that regulated facility are exercisable by—

- (a) the local authority which granted the environmental permit authorising the operation of the regulated facility; or
  - (b) if no permit has been granted, the local authority in whose area the regulated facility is first operated, or is intended to be first operated.
- (5) In this regulation, “functions” includes relevant functions.

#### Direction to a regulator: discharge of functions by a different regulator

**33.**—(1) An appropriate authority may direct—

- (a) the Agency to exercise such local authority functions as are, and for such period as is, specified in the direction; or
- (b) a local authority to exercise such Agency functions as are, and for such period as is, specified in the direction.

(2) A direction under this regulation may include such saving and transitional provisions as the appropriate authority considers necessary or expedient.

(3) A direction under this regulation may be made in respect of a description or class of regulated facility or a specific regulated facility.

(4) A direction under paragraph (1)(b) may only be made in respect of—

- (a) an installation, but not in respect of a mining waste operation carried on at an installation; or
- (b) mobile plant.

(5) When giving a direction under this regulation the appropriate authority must notify the persons in paragraph (6) of the direction and publish the direction on its website.

(6) The persons are—

- (a) the Agency; and
- (b) any local authority or other person whom the appropriate authority considers is affected by the direction.

(7) An appropriate authority must not comply with a duty under paragraph (5) in a case where the authority considers that to do so would be contrary to the interests of national security.

(8) In this regulation (ignoring any direction under this regulation)—

“Agency functions” means functions which are exercisable by the Agency by virtue of regulation 32 or paragraph 2 of Schedule 2; and

“local authority functions” means functions which are exercisable by a local authority by virtue of regulation 32 or paragraph 2 of Schedule 2.

### **Review of environmental permits and inspection of regulated facilities**

34.—(1) The regulator must periodically review environmental permits.

(2) The regulator must make appropriate periodic inspections of regulated facilities.

### **Specific provisions applying to environmental permits**

35.—(1) Schedules 7 to 23 have effect.

(2) To the extent that the operation of a regulated facility of a description or class mentioned in any of the following Schedules requires an environmental permit, the requirements of that Schedule apply in relation to that regulated facility—

- (a) Schedule 7 (Part A installations and Part A mobile plant);
- (b) Schedule 8 (Part B installations and Part B mobile plant);
- (c) Schedule 9 (waste operations);
- (d) Schedule 10 (landfill);
- (e) Schedule 11 (waste motor vehicles);
- (f) Schedule 12 (waste electrical and electronic equipment);
- (g) Schedule 13 (waste incineration);
- (h) Schedule 14 (SED installations);
- (i) Schedule 15 (large combustion plants);
- (j) Schedule 16 (asbestos);
- (k) Schedule 17 (titanium dioxide);
- (l) Schedule 18 (petrol vapour recovery);
- (m) Schedule 19 (waste batteries and accumulators);
- (n) Schedule 20 (mining waste operations);
- (o) Schedule 21 (water discharge activities);
- (p) Schedule 22 (groundwater activities);
- (q) Schedule 23 (radioactive substances activities).

## PART 4

### Enforcement and offences

#### Enforcement notices

**36.**—(1) If the regulator considers that an operator has contravened, is contravening, or is likely to contravene an environmental permit condition, the regulator may serve a notice (an “enforcement notice”) on the operator under this regulation.

(2) An enforcement notice must—

- (a) state the regulator’s view under paragraph (1);
- (b) specify the matters constituting the contravention or making a contravention likely;
- (c) specify the steps that must be taken to remedy the contravention or to ensure that the likely contravention does not occur; and
- (d) specify the period within which those steps must be taken.

(3) Steps that may be specified in an enforcement notice include steps—

- (a) to make the operation of a regulated facility comply with the environmental permit conditions; and
- (b) to remedy the effects of pollution caused by the contravention.

(4) The regulator may withdraw an enforcement notice at any time by further notice served on the operator.

#### Suspension notices

**37.**—(1) The regulator may suspend an environmental permit by serving a notice (a “suspension notice”) on the operator under this regulation.

(2) If the regulator considers that the operation of a regulated facility under an environmental permit involves a risk of serious pollution, it may serve a suspension notice on the operator.

(3) Paragraph (2) applies whether or not the manner of operating the regulated facility which involves the risk is subject to or contravenes an environmental permit condition.

(4) A suspension notice served for the purpose of paragraph (2) must—

- (a) specify—
  - (i) the risk of serious pollution mentioned in that paragraph,
  - (ii) the steps that must be taken to remove that risk, and
  - (iii) the period within which the steps must be taken;
- (b) state that the environmental permit ceases to have effect to the extent specified in the notice until the notice is withdrawn; and
- (c) if the environmental permit continues to authorise the operation of a regulated facility, state any steps (in addition to those already required to be taken by the environmental permit conditions) that are to be taken when operating that regulated facility.

(5) The regulator may suspend an environmental permit under regulation 65(5) by serving a suspension notice on the operator.

(6) A suspension notice served for the purpose of paragraph (5) must—

- (a) specify the reason for the suspension;
- (b) state the sum payable by the operator and the period within which it is to be paid; and

- (c) state that the environmental permit ceases to have effect to the extent specified in the notice until the notice is withdrawn.
- (7) If a suspension notice is served, the environmental permit ceases to have effect to the extent stated in the notice.
- (8) The regulator—
  - (a) may withdraw a suspension notice at any time by further notice served on the operator; and
  - (b) must withdraw a notice when satisfied that the steps specified in it have been taken.

## Offences

- 38.**—(1) It is an offence for a person to—
- (a) contravene regulation 12(1); or
  - (b) knowingly cause or knowingly permit the contravention of regulation 12(1)(a).
- (2) It is an offence for a person to fail to comply with or to contravene an environmental permit condition.
- (3) It is an offence for a person to fail to comply with the requirements of an enforcement notice or of a prohibition notice, suspension notice, landfill closure notice or mining waste facility closure notice.
- (4) It is an offence for a person—
- (a) to fail to comply with a notice under regulation 60(1) requiring the provision of information, without reasonable excuse;
  - (b) to make a statement which the person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
    - (i) in purported compliance with a requirement to provide information imposed by or under a provision of these Regulations,
    - (ii) for the purpose of obtaining the grant of an environmental permit to any person, or the variation, transfer in whole or in part, or surrender in whole or in part of an environmental permit, or
    - (iii) for the purpose of obtaining, renewing or amending the registration of an exempt facility;
  - (c) intentionally to make a false entry in a record required to be kept under an environmental permit condition;
  - (d) with intent to deceive—
    - (i) to forge or use a document issued or authorised to be issued or required for any purpose under an environmental permit condition, or
    - (ii) to make or have in the person's possession a document so closely resembling such a document as to be likely to deceive.
- (5) It is an offence for an establishment or undertaking to—
- (a) fail to comply with paragraph 14(3) or (4) of Schedule 2; or
  - (b) intentionally make a false entry in a record required to be kept under that paragraph.
- (6) If an offence committed by a person under this regulation is due to the act or default of some other person, that other person is also guilty of the offence and liable to be proceeded against and punished accordingly, whether or not proceedings for the offence are taken against the first-mentioned person.

## Penalties

**39.**—(1) A person guilty of an offence under regulation 38(1), (2) or (3) is liable—

- (a) on summary conviction to a fine not exceeding £50,000 or imprisonment for a term not exceeding 12 months, or to both; or
- (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years, or to both.

(2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003<sup>(33)</sup>, paragraph (1)(a) has effect as if for “12 months” there were substituted “6 months”.

(3) A person guilty of an offence under regulation 38(4) is liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.

(4) An establishment or undertaking guilty of an offence under regulation 38(5) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## Defences

**40.**—(1) It is a defence for a person charged with an offence under regulation 38(1), (2) or (3) to prove that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

- (a) the person took all such steps as were reasonably practicable in the circumstances for minimising pollution; and
- (b) particulars of the acts were furnished to the regulator as soon as reasonably practicable after they were done.

(2) A person who knowingly permits a water discharge activity or groundwater activity where the discharge is water from an abandoned mine or an abandoned part of a mine is not guilty of an offence under regulation 38(1) unless—

- (a) the person is the owner or former operator of the mine or that part of it; and
- (b) the mine or the part of the mine was abandoned after 31st December 1999.

(3) In paragraph (2), “abandoned”, in relation to a mine, and “mine” have the meaning given in section 91A of the 1991 Act.

## Offences by bodies corporate

**41.**—(1) If an offence committed under these Regulations by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on the part of an officer,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if the member were a director of the body.

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<sup>(33)</sup> The power to create penalties in section 2 and paragraph 25 of Schedule 1 to the Pollution Prevention and Control Act 1999 (c. 24) is modified pending the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) by section 105 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), as amended by section 88(1) of the Climate Change Act 2008 (c. 27).

(3) In this regulation, “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

### **Enforcement by the High Court**

42. If the regulator considers that proceedings against a person for an offence under regulation 38(3) would afford an ineffectual remedy against the person, the regulator may take proceedings in the High Court for the purpose of securing compliance with the enforcement notice, suspension notice, prohibition notice, landfill closure notice or mining waste facility closure notice.

### **Admissibility of evidence**

43. Where, pursuant to an environmental permit granted by a local authority, an entry is required to be made in any record as to the observance of a condition of the environmental permit and the entry has not been made, that fact is admissible as evidence that the condition has not been observed.

### **Power of court to order cause of offence to be remedied**

44.—(1) This regulation applies where a person is convicted of an offence under regulation 38(1), (2) or (3) in respect of a matter which appears to the court to be a matter which it is in the person’s power to remedy.

(2) In addition to or instead of a punishment imposed under regulation 39 the court may order the person to take such steps for remedying the matter within such period as may be specified in the order.

(3) The period may be extended, or further extended, by order of the court on an application made before the end of the period or the extended period, as the case may be.

(4) If a person is ordered to remedy a matter, that person is not liable under regulation 38 in respect of that matter during the period or the extended period.

## **PART 5**

### **Public Registers**

#### **Interpretation of this Part**

45. In this Part—

“final confidentiality decision” means—

- (a) a determination under regulation 50,
- (b) a determination under section 22(2) or 66(2) of the 1990 Act,
- (c) a determination under regulation 31(2) of the 2000 Regulations, or
- (d) the determination or withdrawal of an appeal in relation to a determination referred to in paragraphs (a) to (c);

“the information subject” means the person to whom information relates; and

“objection notice” means a notice given under regulation 48(1)(b).

### **Duty of the regulator to maintain a public register**

46.—(1) Subject to regulations 47 and 48, the regulator must maintain a register (a “public register”) containing the information in paragraph 1 of Schedule 24 (public registers).

(2) Nothing in paragraph (1) requires a public register to contain information relating to criminal proceedings, or anything which is the subject matter of criminal proceedings, before those proceedings are finally disposed of.

(3) In paragraph (2), “criminal proceedings” includes prospective criminal proceedings.

(4) A local authority must also include on its public register any information which is included on the Agency’s public register in respect of a regulated facility (other than mobile plant or a stand-alone water discharge activity or stand-alone groundwater activity)—

- (a) for which the Agency is the regulator; and
- (b) which is in the area of the authority.

(5) But—

- (a) paragraph (4) does not apply to a port health authority; and
- (b) every local authority whose area adjoins that of a port health authority must comply with paragraph (4) as if the port health authority had not been constituted.

(6) The Agency must provide the local authority with the information necessary to comply with paragraph (4).

(7) The regulator must enter information on its public register as soon as reasonably practicable after it comes within the regulator’s possession.

(8) Where information of any description is excluded from any public register under regulation 48, a statement must be entered on the register indicating the existence of information of that description.

(9) The regulator must—

- (a) make its public register available for public inspection at all reasonable times, free of charge; and
- (b) enable members of the public to obtain copies of entries on its public register on payment of a reasonable charge.

(10) A public register may be kept in any form.

### **Exclusion from public registers of information affecting national security**

47.—(1) The appropriate authority may direct the regulator that in the interests of national security specified information or information of a specified description must be excluded from a public register.

(2) The regulator must notify the appropriate authority of any information (other than information relating to a radioactive substances activity) that it excludes from a public register pursuant to such a direction.

(3) The appropriate authority may direct the regulator that in the interests of national security information of a specified description—

- (a) must be referred to the authority for its determination as to whether or not the information may be included on a public register; and
- (b) must not be included on a public register unless the appropriate authority determines that it may be included.

(4) A person may give a notice to the appropriate authority stating that, in the person’s opinion, the inclusion of information on a public register would be contrary to the interests of national security.

- (5) A notice under paragraph (4) must specify the information and indicate its apparent nature.
- (6) A person giving a notice under paragraph (4) must at the same time notify the regulator.
- (7) The regulator must not include information notified under paragraph (4) on a public register unless the appropriate authority determines that it may be included.

#### **Exclusion from public registers of confidential information**

**48.**—(1) The regulator must exclude information from a public register, unless a condition in paragraph (2) is met, if it—

- (a) considers that the information may be confidential information; or
  - (b) receives notice from the information subject which—
    - (i) states that the information subject considers the information is confidential information, and
    - (ii) gives reasons for that view.
- (2) The conditions are that—
- (a) in relation to paragraph (1)(a), the regulator has given a notice under regulation 49(1) and the information subject has given notice of consent under regulation 49(2)(a);
  - (b) in relation to paragraph (1)(a) or (b)—
    - (i) a final confidentiality decision that the information should be included on the register has been made, or
    - (ii) the appropriate authority has given a direction under regulation 56(1) which requires the information to be included on the register.

#### **Procedure if the regulator considers that information may be confidential**

**49.**—(1) If the regulator considers that information may be confidential information but has not received an objection notice, it must give notice of that view to the information subject.

(2) The information subject may within 15 working days after the date of the notice given by the regulator under paragraph (1)—

- (a) give notice to the regulator consenting to the regulator including the information on the register; or
- (b) give an objection notice to the regulator.

#### **Duty to determine confidentiality**

**50.** The regulator must determine whether information must be included on the public register, or excluded from the public register because it is confidential information, if—

- (a) having given notice under regulation 49(1), it does not receive notice of consent in accordance with regulation 49(2)(a); or
- (b) it receives an objection notice.

#### **Determination of confidentiality**

**51.**—(1) When making a determination under regulation 50, the regulator must comply with this regulation.

- (2) In making the determination, the regulator must—
  - (a) take any reasons given in an objection notice into account;

- (b) apply a presumption in favour of including the information on the public register; and
- (c) determine to exclude the information from the public register if it considers that—
  - (i) the information is commercial or industrial information,
  - (ii) its confidentiality is provided by law to protect a legitimate economic interest, and
  - (iii) in all the circumstances, the public interest in maintaining the confidentiality of the information outweighs the public interest in including it on the register.

(3) But, to the extent that information relates to emissions, the regulator must determine to include it on the public register.

(4) Nothing in this regulation authorises the exclusion from the public register of information contained in or otherwise held with other information excluded from the register unless the information is not reasonably capable of being separated for the purposes of inclusion on the register.

### **Procedure following a determination**

**52.**—(1) The regulator must give notice of its determination, the reasons for it and the details of the appeals procedure to the information subject within—

- (a) a period of 20 working days beginning with the date its duty under regulation 50 arises; or
- (b) such longer period as it agrees with the information subject.

(2) If the regulator fails to give notice under paragraph (1) within the period required by that paragraph, the information subject may give notice to the regulator of that failure, and on such notice

- (a) the regulator is deemed to have determined that the information must be included on the register; and
- (b) the deemed determination is subject to the right of appeal in regulation 53(1).

(3) If the regulator determines that the information must be included on the public register, it must not include the information before the expiry of the period of 15 working days after—

- (a) it has given notice of the determination; or
- (b) a notice under paragraph (2) resulting in a deemed determination is given,

but must include it after the expiry of that period if notice of appeal has not been given.

### **Appeals in relation to confidentiality**

**53.**—(1) The information subject may give notice of appeal to the appropriate authority against a determination made under regulation 50 within 15 working days after the regulator has given notice of it.

(2) A notice of appeal must—

- (a) be in writing;
- (b) include a statement of the grounds of appeal;
- (c) state whether the information subject wishes the appeal to be in the form of a hearing or to be disposed of through written representations; and
- (d) be copied to the regulator.

(3) If the information subject gives notice of appeal, the regulator must not include the information on the public register before the appeal is decided.

(4) The appropriate authority—

- (a) may give the information subject and the regulator an opportunity of appearing before and being heard by a person appointed by it; and
- (b) must do so in a case where the notice of appeal states that the information subject wishes the appeal to be in the form of a hearing.

(5) A hearing under paragraph (4) of this regulation is subject to paragraphs 5(2) to 5(6) and 6 of Schedule 6 (except paragraph 5(3)(c)) as if it were a hearing under paragraph 5(1) of that Schedule, save that “the appellant” is to be read as “the information subject”.

### **Consequences of an appeal**

**54.**—(1) If the appropriate authority allows the appeal, the regulator must exclude the information from the public register.

(2) If the appropriate authority rejects the appeal or the appeal is withdrawn, the regulator must include the information on the public register.

### **Reconsideration of confidentiality**

**55.**—(1) The regulator must cease to treat information as confidential information at the expiry of—

- (a) a period of 4 years after the final confidentiality decision; or
- (b) such shorter period as is specified in that decision.

(2) But if the person to whom the information relates gives notice to the regulator before the expiry of that period that the person considers that the information remains confidential information —

- (a) regulation 48 applies in respect of the information and the regulator must treat the notice as an objection notice; and
- (b) regulations 50 to 54 apply notwithstanding any previous compliance with those regulations in relation to the information.

### **Directions of the appropriate authority in relation to confidentiality**

**56.**—(1) The appropriate authority may direct the regulator that specified information, or information of a specified description, must be included on the public register even though it is confidential information.

(2) The appropriate authority must not give a direction under paragraph (1) unless it considers that the public interest in including such information on the register outweighs the public interest in maintaining its confidentiality.

## **PART 6**

### **Powers and functions of the regulator and the appropriate authority**

#### **Power of the regulator to prevent or remedy pollution**

**57.**—(1) If the regulator considers that the operation of a regulated facility under an environmental permit involves a risk of serious pollution, it may arrange for steps to be taken to remove that risk.

(2) The regulator may arrange for steps to be taken to remedy the effects of pollution if—

- (a) the commission of an offence under regulation 38(1), (2) or (3) causes pollution; or

- (b) the regulator suspects that an offence under that regulation is being or has been committed and that pollution is being or has been caused as a result.
- (3) If the regulator intends to arrange for steps to be taken under paragraph (2), it must notify the operator of the steps not less than 5 working days before they are taken.
- (4) If the regulator arranges for steps to be taken under this regulation, it may recover the cost of taking those steps from the operator.
- (5) But costs are not recoverable under paragraph (4)—
  - (a) if the steps referred to in paragraph (1) are taken and the operator shows that there was no risk of serious pollution; or
  - (b) to the extent that the operator shows that the costs were unnecessarily incurred by the regulator.

#### **Environment Agency: notices in relation to emissions to water**

**58.**—(1) This regulation applies to Part A installations and Part A mobile plant for which a local authority is the regulator.

(2) At any time the Agency may give notice to the local authority specifying the emission limit values or the conditions it considers appropriate for preventing or reducing emissions into water from the installation or mobile plant.

(3) If such a notice is issued, the local authority must exercise its functions under these Regulations to ensure the environmental permit for the installation or mobile plant includes—

- (a) the emission limit values or conditions specified in the notice; or
- (b) such stricter limit values or more onerous conditions as the authority thinks fit.

(4) In this regulation, “emission limit value” means the mass, expressed in terms of specific parameters, concentration or level of an emission, which must not be exceeded during a period of time.

#### **Environment Agency: public participation statement**

**59.**—(1) The Agency must prepare and publish a statement of its policies for complying with its public participation duties.

(2) In preparing or revising the statement the Agency must consult such persons as it considers are affected by, are likely to be affected by, or have an interest in, the statement.

(3) The Agency must—

- (a) keep the statement under review;
- (b) revise the statement when it considers necessary; and
- (c) publish any revised statement.

(4) The Agency must comply with any published statement when exercising its functions under the public participation provisions.

(5) The duty in paragraph (2) may be satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

(6) In this regulation, “public participation duties” means the duties in the following provisions—

- (a) regulation 26;
- (b) regulation 29;
- (c) paragraphs 6 and 8(2) of Part 1 of Schedule 5.

### **Power to require the provision of information**

**60.**—(1) For the purposes of discharging its functions under these Regulations, an appropriate authority, regulator or exemption registration authority, by notice served on any person, may require that person to provide such information in such form and within such period as is specified in the notice.

(2) A notice under paragraph (1) may require a person to provide any information on emissions where that requirement is reasonable, including the provision of information—

- (a) not in the person's possession; and
- (b) which would not usually come into the person's possession.

(3) For the purposes of this regulation the discharge by the appropriate authority of—

- (a) an obligation of the United Kingdom under the Community Treaties; or
- (b) an international obligation of the United Kingdom,

must be treated as a function of the authority under these Regulations.

(4) For the purposes of this regulation the compilation of an inventory of emissions (whether or not from a regulated facility) must be treated as a function of the regulator under these Regulations.

### **Directions to regulators and exemption registration authorities: general**

**61.**—(1) An appropriate authority may give directions to a regulator or exemption registration authority of a general or specific character with respect to the carrying out of its functions under these Regulations.

(2) Without prejudice to the generality of the power in paragraph (1), a direction may direct the regulator or exemption registration authority to exercise or not to exercise—

- (a) specified powers;
- (b) its powers in specified circumstances; or
- (c) its powers in a specified manner.

(3) Except in an emergency, an appropriate authority may give a direction to the Agency under paragraph (1) only after consultation with the Agency.

(4) The regulator or exemption registration authority must comply with a direction given to it under these Regulations.

### **Reference of applications to an appropriate authority**

**62.**—(1) An appropriate authority may give directions to a regulator requiring that a particular application or class of application be referred to it for determination.

(2) The regulator must—

- (a) inform the applicant of the fact that the application is being referred to the appropriate authority; and
- (b) forward to the appropriate authority any representations made in respect of the application.

(3) When an application is referred to an appropriate authority, the appropriate authority—

- (a) may afford the applicant and the regulator an opportunity of appearing before and being heard by a person appointed by the appropriate authority, and
- (b) must do so in any case where a request is duly made by the applicant or the regulator to be so heard.

(4) A request under paragraph (3)(b) must be made in writing within 15 working days after the day on which the applicant is informed that the application is being referred to the appropriate authority.

(5) A hearing under paragraph (3) is subject to paragraphs 5(2) to (6) and 6 of Schedule 6 (except paragraph 5(3)(c)) as if it were a hearing under paragraph 5(1) of that Schedule with the following modifications—

- (a) “the appellant” is to be read as “the applicant”;
- (b) “the appeal” is to be read as “the application”.

(6) On determining an application referred to it under this regulation the appropriate authority must give to the regulator a direction as to whether the regulator is to grant the application and, if so, the conditions that are to be attached to the environmental permit.

(7) In this regulation, “application” means an application—

- (a) for the grant of an environmental permit, or
- (b) for the variation of an environmental permit.

### **Directions to the Agency: installations outside the United Kingdom**

**63.**—(1) This regulation applies where an appropriate authority receives information pursuant to Article 18(1) of the IPPC Directive in relation to the operation of an installation outside the United Kingdom which is likely to have a significant negative effect on the environment of England or Wales.

(2) For the purpose of complying with Article 18(2) of the IPPC Directive, the appropriate authority must direct the Agency to take such steps as it considers appropriate to—

- (a) bring the information to the attention of persons likely to be affected by the operation of the installation; and
- (b) provide them with an opportunity to comment on the information.

### **Guidance to regulators and exemption registration authorities**

**64.**—(1) An appropriate authority may issue guidance to a regulator or exemption registration authority with respect to the exercise of its functions under these Regulations.

(2) In the exercise of those functions the regulator or exemption registration authority must have regard to the guidance.

### **Fees and charges in relation to the exercise of regulator’s functions by local authorities**

**65.**—(1) An appropriate authority may make, and from time to time revise, a scheme prescribing

- (a) fees payable to a regulator in respect of applications—
  - (i) for the grant of an environmental permit,
  - (ii) for the variation of an environmental permit,
  - (iii) for the transfer of an environmental permit in whole or in part,
  - (iv) for the surrender of an environmental permit in whole or in part;
- (b) fees payable to a regulator in respect of a regulator-initiated variation; and
- (c) charges payable to a regulator in respect of the subsistence of an environmental permit.

(2) A scheme may in particular—

- (a) prescribe specific fees and charges or the methods by which they are to be calculated;
- (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;

- (c) subject to the requirements of these Regulations, provide for the time when, and the manner in which, payments required by the scheme are to be made; and
  - (d) make such incidental, supplementary and transitional provision as appears necessary or expedient to the appropriate authority.
- (3) In making or revising a scheme, so far as practicable the appropriate authority must ensure that the fees and charges payable are sufficient to cover expenditure by a regulator—
- (a) in exercising its functions under these Regulations;
  - (b) in making payment to any person who prepares guidance in relation to an installation or mobile plant that is—
    - (i) mentioned in regulation 32(2), or
    - (ii) specified in a direction under regulation 33;
  - (c) in making payment to the Agency in relation to the exercise of the Agency’s functions under regulation 58.
- (4) A scheme must provide for the payment of sums by the regulator to the Agency where those sums are related to expenditure by the Agency under regulation 58 or in preparing guidance referred to in paragraph (3)(b).
- (5) If a regulator considers that an operator has failed to pay a charge specified in a scheme in respect of the subsistence of the operator’s permit, the regulator may revoke or suspend the permit.
- (6) A revocation or suspension must be by way of notice served under regulation 22(3) or regulation 37.
- (7) In this regulation, “regulator” means a local authority on which functions are conferred by regulation 32 or by a direction under regulation 33.

### **Plans relating to emissions**

- 66.**—(1) Subject to paragraph (3), an appropriate authority may make plans for—
- (a) the setting of limits on the total amount, or the total amount in any period, of emissions from all or any description of source; or
  - (b) the allocation of quotas relating to such emissions.
- (2) If the appropriate authority allocates a quota in a plan made under paragraph (1) it may also make a scheme for the trading or other transfer of that quota.
- (3) This regulation does not apply to an emission plan.
- (4) In this regulation—
- “emission” means the direct or indirect release of any substance from individual or diffuse sources into the air, water or land; and
- “emission plan” has the meaning given in the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(34).

## PART 7

### Miscellaneous provisions

#### Chapter 1

#### Interpretation

#### **Interpretation of this Part**

##### **67.** In this Part—

“2007 transitional application” means a transitional application within the meaning of Part 7 of the 2007 Regulations;

“authorisation” means an authorisation under section 13 or 14 of the 1993 Act;

“closure and after-care obligations” means any environmental permit condition—

- (a) which implements Article 13 of the Landfill Directive, or
- (b) which is otherwise related to closure and after-care of a landfill site or to ensuring that it does not cause pollution;

“determination date”—

- (a) for an application mentioned in regulation 70 of the 2007 Regulations (other than an application to which regulation 71 of those Regulations applied), has the meaning given in paragraph (2) of that regulation,
- (b) for an application to which regulation 71 of those Regulations applied, has the meaning given in paragraph (4) of that regulation;

“discharge consent” means a consent under Chapter 2 of Part 3 of the 1991 Act;

“disposal licence” means a disposal licence issued under section 5 of the Control of Pollution Act 1974;

“existing” means in force at the relevant time;

“existing environmental permit” means an environmental permit under the 2007 Regulations in force at the relevant time;

“existing notice” means, for the purposes of Chapter 3, a notice in force at the relevant time served or given by the Agency under a former enactment in relation to—

- (a) an authorisation, registration, discharge consent or groundwater permit, or
- (b) the requirement for a discharge consent or groundwater permit;

“existing permit” means an existing authorisation, registration, discharge consent or groundwater permit;

“former enactment” means the 1991 Act, the 1993 Act or the 2009 Regulations;

“former PPC or waste legislation” means any provision of the following enactments repealed or revoked by the 2007 Regulations—

- (a) the 1990 Act,
- (b) the Waste Management Licensing Regulations 1994<sup>(35)</sup>,
- (c) the PPC Regulations,

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(35) 1994/1056, amended by S.I. 1995/288, 1995/1950, 1996/593, 1996/634, 1996/972, 1996/1279, 1997/2203, 1998/606, 1998/2746, 2000/1973, 2002/674, 2002/1087 (W. 114), 2002/1559, 2002/2980, 2003/595, 2003/780 (W. 91), 2003/2635, 2004/70 (W. 6), 2004/3276, 2005/894, 2005/1728, 2005/1806 (W. 138), 2005/2900, 2006/937, 2006/3315, 2007/1156 and 2007/2596.

- (d) the Landfill (England and Wales) Regulations 2002<sup>(36)</sup>;
- “groundwater permit” means a permit under regulation 13 of the 2009 Regulations;
- “licence” means a disposal licence or a waste management licence;
- “outstanding appeal” means an appeal made, but not determined, by the relevant time;
- “PPC permit” means a permit granted under regulation 10 of the PPC Regulations;
- “the PPC Regulations” means the Pollution Prevention and Control (England and Wales) Regulations 2000<sup>(37)</sup>;
- “radioactive substances exemption order” means an order made, or having effect as if made, under section 8(6), 11(1) or 15(2) of the 1993 Act;
- “registration” means a registration under section 7 or 10 of the 1993 Act;
- “related activity” means any of the following activities relating to the operation of a landfill—
- (a) storage or treatment of leachate;
  - (b) utilization or flaring of landfill gas;
- “relevant time” means immediately before the coming into force of these Regulations;
- “transfer notice” means any of the following notices given before the coming into force of these Regulations in respect of a transfer which, at the relevant time, had not taken effect—
- (a) a joint notice given under paragraph 11(6)(a) of Schedule 10 to the 1991 Act for the purpose of the transfer of a discharge consent,
  - (b) a notice mentioned in paragraph (a) given for the purpose of the transfer of a groundwater permit;
- “transitional application” means any of the following applications not determined by the relevant time—
- (a) an application for an authorisation or registration,
  - (b) an application for the variation of an authorisation or registration,
  - (c) an application under section 16A of the 1993 Act for the transfer of an authorisation,
  - (d) an application under section 12 of the 1993 Act to cancel a registration,
  - (e) an application under section 17 of the 1993 Act to revoke an authorisation,
  - (f) an application for a discharge consent,
  - (g) an application for the variation of a discharge consent,
  - (h) an application for a groundwater permit; and
- “waste management licence” means a licence granted under section 35 of the 1990 Act.

## Chapter 2

### Further provision – waste and extractive waste

#### Further provision in relation to waste and extractive waste

- 68.**—(1) Schedule 25 (waste and extractive waste) has effect.
- (2) Section 33(1)(a) of the 1990 Act (prohibition on unauthorised deposit of waste)<sup>(38)</sup>—
- (a) does not apply to an operation which—

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<sup>(36)</sup> S.I. 2002/1559, revoked by S.I. 2007/3538.

<sup>(37)</sup> S.I. 2000/1973, revoked by S.I. 2007/3538.

<sup>(38)</sup> 1990 c. 43; section 33(1)(a) was amended by S.I. 2007/3538, Schedule 21, paragraph 4(2) and by S.I. 2009/1799, Schedule 2, paragraph 1(3)(a).

- (i) falls within a description in Part 3 of Schedule 25, and
  - (ii) meets the conditions specified in that Part for an operation of that description; and
- (b) does not apply to extractive waste at any time before the requirement for an environmental permit under regulation 12 applies in respect of the deposit of that waste.

### Chapter 3

#### Transitional provisions - former enactments

#### **Existing permits**

- 69.** On the coming into force of these Regulations an existing permit—
- (a) becomes an environmental permit authorising the operation of a regulated facility under these Regulations; and
  - (b) has effect subject to any conditions that applied to it at the relevant time.

#### **Site plans not required for existing permits**

- 70.** Regulation 14(4) does not apply in relation to a regulated facility—
- (a) authorised by an environmental permit by virtue of regulation 69(a); or
  - (b) authorised by an environmental permit granted on the determination of—
    - (i) a transitional application, or
    - (ii) an outstanding appeal.

#### **Review of existing groundwater permits**

**71.—**(1) Any environmental permit that, at the relevant time, was a permit within the meaning of the 2009 Regulations and was granted before the coming into force of those Regulations must be reviewed before 22nd December 2012.

(2) The regulator must on review assess compliance with the conditions of the permit.

(3) If the operator fails to comply with any condition of the permit, the regulator must take appropriate steps to ensure compliance.

#### **Radioactive substances exemption orders**

**72.** On the coming into force of these Regulations, the following become exemptions from the requirement for an environmental permit—

- (a) an exemption from registration under an existing radioactive substances exemption order;
- (b) an exclusion from the requirement for an authorisation under an existing radioactive substances exemption order.

#### **Exempt water discharge activities**

**73.—**(1) In this regulation, “small sewage effluent water discharge activity” means the discharge from a sewage treatment plant of 5 cubic metres per day or less of sewage effluent into inland freshwaters, coastal waters or relevant territorial waters.

(2) On the coming into force of these Regulations, a small sewage effluent water discharge activity authorised by an existing permit is taken to be an exempt facility.

### **Exempt groundwater activities**

74.—(1) In this regulation, “small sewage effluent groundwater activity” means the discharge from a septic tank or sewage treatment plant of 2 cubic metres per day or less of sewage effluent that results in the input of pollutants to groundwater.

(2) On the coming into force of these Regulations, a small sewage effluent groundwater activity authorised by an existing permit is taken to be an exempt facility.

(3) From the coming into force of these Regulations until 1st January 2012, a person carrying on a groundwater activity taken to be an exempt facility under paragraph (2) does not require an environmental permit unless a notice is served on that person under paragraph 10 of Schedule 22 and has taken effect.

(4) From the coming into force of these Regulations until 1st January 2012, a small sewage effluent groundwater activity that, at the relevant time, was not authorised by an existing permit does not need to be authorised by an environmental permit or registered as an exempt facility unless—

- (a) a notice was served under the 2009 Regulations prohibiting the carrying on of the activity and that notice continues in effect under these Regulations; or
- (b) a notice under paragraph 10 of Schedule 22 is served on the person carrying on the activity and the notice has taken effect.

(5) A small sewage effluent groundwater activity that is begun after the coming into force of these Regulations does not need to be authorised by an environmental permit or registered as an exempt facility until 1st January 2012 unless a notice under paragraph 10 of Schedule 22 is served on the person carrying on the activity and the notice has taken effect.

(6) On and after 1st January 2012, a person must not carry on a small sewage effluent groundwater activity unless it is—

- (a) authorised by an environmental permit; or
- (b) registered as an exempt facility.

### **Transitional applications**

75.—(1) On the coming into force of these Regulations, a transitional application is taken to be an application for the grant, variation, transfer or surrender of an environmental permit.

(2) The application is taken to be made on the date the transitional application was made.

(3) Anything done under a former enactment in relation to a transitional application before the coming into force of these Regulations is taken to be done under these Regulations.

(4) The public participation provisions apply to a transitional application under a former enactment unless—

- (a) the transitional application relates to a radioactive substances activity; or
- (b) under the former enactment there was no requirement for public participation in the application process.

### **Transfer notices under former enactments**

76.—(1) On the coming into force of these Regulations, a transfer notice is taken to be a joint notification under regulation 21(4).

(2) The joint notification is taken to be made on the date the transfer notice was made.

(3) Anything done under a former enactment in relation to a transfer notice before the coming into force of these Regulations is taken to be done under these Regulations.

### **Existing notices under former enactments**

77. On the coming into force of these Regulations—

- (a) an existing notice given under section 86(1)(b) of the 1991 Act in relation to a discharge from a highway drain or a discharge into the waters of any lake or pond which are not inland freshwaters becomes an environmental permit and has effect subject to any conditions that applied to it at the relevant time;
- (b) any requirements imposed under an existing notice served under section 20 of the 1993 Act in relation to an existing authorisation or registration which becomes an environmental permit by virtue of regulation 69(a) are taken to be conditions of the environmental permit;
- (c) an existing notice served under section 90B of the 1991 Act<sup>(39)</sup> or section 21 of the 1993 Act is taken to be an enforcement notice served under these Regulations;
- (d) an existing notice served under section 22 of the 1993 Act is taken to be a suspension notice served under these Regulations;
- (e) an existing notice served under regulation 18 of the 2009 Regulations prohibiting a course of action is taken to be a prohibition notice served under these Regulations; and
- (f) each of the following existing notices is taken to be a revocation notice served under these Regulations—
  - (i) an existing notice served under paragraph 7(2)(a) of Schedule 10 to the 1991 Act (discharge consents),
  - (ii) an existing notice served under regulation 16(5) of the 2009 Regulations (groundwater permits),
  - (iii) an existing notice given under section 12(2)(a) of the 1993 Act (registrations) in relation to the cancellation of a registration,
  - (iv) an existing notice given under section 17(3)(a) of the 1993 Act (authorisations) in relation to the revocation of an authorisation.

### **Outstanding appeals against existing notices**

78.—(1) Any outstanding appeal made under a former enactment against an existing notice is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the former enactment.

(3) Anything done under the former enactment in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the former enactment, in which case that time limit applies.

### **Appeals under these Regulations against existing notices**

79.—(1) An appeal may be made under these Regulations against an existing notice if, by the relevant time, the time for making an appeal under the former enactment had not expired.

(2) If an appeal is made under these Regulations against an existing notice, the applicable time limit for giving notice of appeal runs from the date the existing notice was served under the former enactment.

(3) In this regulation, the applicable time limit is—

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<sup>(39)</sup> Section 90B was inserted by the Environment Act 1995, section 120 and Schedule 22, paragraph 142.

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the former enactment, that time limit.

#### **Decisions under former enactments**

**80.** A decision by a regulator or appropriate authority under a former enactment is taken to be made under these Regulations.

#### **Outstanding appeals against decisions under former enactments**

**81.—**(1) Any outstanding appeal made under a former enactment against a decision under that enactment is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the former enactment.

(3) Anything done under the former enactment in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the former enactment, in which case that time limit applies.

#### **Appeals under these Regulations against decisions under former enactments**

**82.—**(1) An appeal may be made under these Regulations against a decision under a former enactment if, by the relevant time, the time for making an appeal under the former enactment had not expired.

(2) If an appeal is made under these Regulations against a decision made under a former enactment, the applicable time limit for giving notice of appeal runs from the date the decision under the former enactment was made.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the former enactment, that time limit.

#### **Existing directions under former enactments**

**83.** On the coming into force of these Regulations—

- (a) an existing direction given to the Agency by the Secretary of State under section 23(1) of the 1993 Act is taken to be given under regulation 61; and
- (b) an existing direction given to the Agency by the Secretary of State under section 24(1) of the 1993 Act is taken to be given under regulation 62.

#### **Public registers under former enactments**

**84.—**(1) On the coming into force of these Regulations, the following information is taken to be information contained on a public register under these Regulations—

- (a) any information that, at the relevant time—
  - (i) was kept under section 39 of the 1993 Act, and
  - (ii) was publicly available;
- (b) any information in relation to discharge consents or groundwater permits that, at the relevant time, was kept under section 190 of the 1991 Act.

(2) The following decisions are taken to be final confidentiality decisions for the purposes of Part 5—

- (a) a decision by the Agency under section 191B of the 1991 Act<sup>(40)</sup> that information is commercially confidential in relation to any person;
- (b) a decision by the Agency under section 39(1) of the 1993 Act not to disclose information relating to any relevant process or trade secret.

(3) For the purposes of regulation 55, a final confidentiality decision by virtue of paragraph (2) is taken to be made on the coming into force of these Regulations.

(4) The following directions are taken to be given under regulation 47(1)—

- (a) a direction given under section 191A of the 1991 Act<sup>(41)</sup>;
- (b) a direction given under section 25 of the 1993 Act.

(5) A notification by the Agency under section 191A(3) of the 1991 Act is taken to be a notification under regulation 47(2).

### **Recovery of expenses for disposal of radioactive waste**

**85.**—(1) If, before the coming into force of these Regulations, the regulator disposed of radioactive waste in the exercise of its powers under section 30 of the 1993 Act but did not recover all expenses reasonably incurred by it under that section, the regulator may recover expenses under paragraph 4(2) of Part 3 of Schedule 23 to these Regulations.

(2) If, before the coming into force of these Regulations, the regulator disposed of radioactive waste in the exercise of its powers under section 30A of the 1993 Act<sup>(42)</sup> but did not recover all expenses reasonably incurred by it under that section, the regulator may recover expenses under paragraph 8(2) of Part 4 of Schedule 23 to these Regulations.

## **Chapter 4**

Transitional provisions – the 2007 Regulations and former PPC or waste legislation

### **Existing environmental permits**

**86.** On the coming into force of these Regulations, an existing environmental permit—

- (a) becomes an environmental permit authorising the operation of a regulated facility under these Regulations; and
- (b) has effect subject to any conditions that applied to it at the relevant time.

### **Applications under the 2007 Regulations**

**87.**—(1) If an application for the grant, variation, transfer or surrender of an environmental permit under the 2007 Regulations was not determined by the relevant time, the application is taken to be made under these Regulations.

(2) The application is taken to be made on the date the application was made under the 2007 Regulations.

(3) Anything done under the 2007 Regulations in relation to the application before the coming into force of these Regulations is taken to be done under these Regulations.

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<sup>(40)</sup> Section 191B was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 170.

<sup>(41)</sup> Section 191A was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 170.

<sup>(42)</sup> Section 30A was inserted by S.I. 2005/2686.

### **Applications for grant of PPC permit or waste management licence**

**88.**—(1) If the determination date for an application mentioned in regulation 70(1)(a) or (b) of the 2007 Regulations was not reached by the relevant time, the application is taken to be an application for the grant of an environmental permit.

(2) The application is taken to be made on the date the application was made under former PPC or waste legislation.

(3) Anything done under former PPC or waste legislation in relation to the application before the coming into force of these Regulations is taken to be done under these Regulations.

### **2007 transitional applications for grant of PPC permit, other than in relation to landfill**

**89.**—(1) This regulation applies where, by the relevant time—

- (a) an existing licence, other than a licence the whole or part of which authorises the operation of a landfill and the carrying on of any related activity, was the subject of an application to which regulation 71 of the 2007 Regulations applied; and
- (b) the determination date had not been reached.

(2) On the coming into force of these Regulations—

- (a) the application is taken to be an application for the grant of an environmental permit; and
- (b) pending determination of the application, the licence has effect—
  - (i) as if it were an environmental permit, and
  - (ii) subject to any conditions that applied to it at the relevant time.

(3) If on the determination of the application an environmental permit is granted, the licence—

- (a) becomes an environmental permit; and
- (b) has effect subject to any conditions imposed on it under these Regulations.

(4) If the application is withdrawn, or on the determination of the application an environmental permit is not granted, the licence no longer has effect.

### **2007 transitional applications for grant of PPC permit in relation to landfill**

**90.**—(1) This regulation applies where, by the relevant time —

- (a) an existing licence the whole or part of which authorises the operation of a landfill and the carrying on of any related activity was the subject of an application to which regulation 71 of the 2007 Regulations applied; and
- (b) the determination date had not been reached.

(2) On the coming into force of these Regulations—

- (a) the application is taken to be an application for the grant of an environmental permit; and
- (b) pending determination of the application, the licence (or that part of the licence relating to the landfill and any related activity) has effect—
  - (i) as if it were an environmental permit, and
  - (ii) subject to any conditions that applied to it at the relevant time.

(3) If on the determination of the application an environmental permit is granted, the licence—

- (a) becomes an environmental permit authorising the operation of the landfill and the carrying on of any related activity; and
- (b) has effect subject to any conditions imposed on it under these Regulations.

(4) If the application is withdrawn, or on the determination of the application an environmental permit is not granted, the licence (or that part of the licence relating to the landfill and any related activity)—

- (a) becomes an environmental permit authorising the carrying on of any related activity; and
- (b) has effect subject to closure and after-care obligations.

#### **2007 transitional applications for grant of PPC permit in relation to landfill: applications determined under the 2007 Regulations**

**91.**—(1) This regulation applies where—

- (a) an existing licence (or any part of an existing licence) authorising the operation of a landfill and the carrying on of any related activity was the subject of an application to which regulation 71 of the 2007 Regulations applied;
- (b) the application was determined under those Regulations; and
- (c) on the determination date, the licence did not become an environmental permit under those Regulations.

(2) On the coming into force of these Regulations, the licence (or that part of the licence relating to the landfill and any related activity)—

- (a) becomes an environmental permit authorising the carrying on of any related activity; and
- (b) has effect subject to closure and after-care obligations.

#### **2007 transitional applications not relating to grant of PPC permit**

**92.**—(1) If a PPC permit or waste management licence was the subject of a 2007 transitional application for variation, transfer or surrender and by the relevant time the determination date had not been reached—

- (a) on the coming into force of these Regulations, the permit or licence—
  - (i) becomes an environmental permit, and
  - (ii) has effect subject to any conditions that applied to it at the relevant time; and
- (b) the application is taken to be an application for the variation, transfer or surrender of an environmental permit under these Regulations.

(2) If a waste management licence was the subject of a 2007 transitional application for modification and by the relevant time the determination date had not been reached—

- (a) on the coming into force of these Regulations, the licence—
  - (i) becomes an environmental permit, and
  - (ii) has effect subject to any conditions that applied to it at the relevant time; and
- (b) the application is taken to be an application for the variation of an environmental permit under these Regulations.

(3) The application is taken to be made on the date the 2007 transitional application was made.

(4) Anything done before the coming into force of these Regulations under the 2007 Regulations or former PPC or waste legislation in relation to a 2007 transitional application is taken to be done under these Regulations.

### **Notifications of surrender**

**93.** On the coming into force of these Regulations, a notification that was given under regulation 24(2) of the 2007 Regulations that had not taken effect by the relevant time is taken to be a notification under regulation 24(2).

### **Existing notices under the 2007 Regulations or former PPC or waste legislation**

**94.** On the coming into force of these Regulations—

- (a) the following are taken to be enforcement notices—
  - (i) an existing enforcement notice served under the 2007 Regulations,
  - (ii) an existing notice served under regulation 24 of the PPC Regulations,
  - (iii) an existing notice served under section 42(5) of the 1990 Act;
- (b) the following are taken to be suspension notices—
  - (i) an existing suspension notice served under the 2007 Regulations,
  - (ii) an existing notice served under regulation 25 of the PPC Regulations,
  - (iii) an existing notice served under section 38(6) of the 1990 Act;
- (c) the following are taken to be revocation notices—
  - (i) an existing revocation notice served under the 2007 Regulations,
  - (ii) an existing notice served under regulation 21 of the PPC Regulations,
  - (iii) an existing notice served under section 38(3) or (4) of the 1990 Act;
- (d) an existing closure notice served under regulation 16 of the Landfill (England and Wales) Regulations 2002 is taken to be a landfill closure notice.

### **Outstanding appeals against existing notices**

**95.—(1)** Any outstanding appeal made under the 2007 Regulations or former PPC or waste legislation against an existing notice mentioned in regulation 94 is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the 2007 Regulations or former PPC or waste legislation.

(3) Anything done under the 2007 Regulations or former PPC or waste legislation in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, in which case that time limit applies.

### **Appeals under these Regulations against existing notices**

**96.—(1)** An appeal may be made under these Regulations against an existing notice mentioned in regulation 94 if, by the relevant time, the time for making an appeal under the 2007 Regulations or former PPC or waste legislation had not expired.

(2) If an appeal is made under these Regulations against an existing notice, the applicable time limit for giving notice of appeal runs from the date the existing notice was served under the 2007 Regulations or former PPC or waste legislation.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or

- (b) if a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, that time limit.

#### **Decisions under the 2007 Regulations or former PPC or waste legislation**

97. The following decisions are taken to be made under these Regulations—

- (a) a decision by a regulator or appropriate authority under the 2007 Regulations;
- (b) a decision by a regulator or appropriate authority under former PPC or waste legislation.

#### **Outstanding appeals against decisions under the 2007 Regulations or former PPC or waste legislation**

98.—(1) Any outstanding appeal made under the 2007 Regulations or former PPC or waste legislation against a decision mentioned in regulation 97 is taken to be made under these Regulations.

(2) A notice of appeal under Schedule 6 is taken to be given on the date the outstanding appeal was made under the 2007 Regulations or former PPC or waste legislation.

(3) Anything done under the 2007 Regulations or former PPC or waste legislation in relation to the outstanding appeal is taken to be done under these Regulations.

(4) The time limits in Schedule 6 for doing anything in relation to an appeal apply in relation to the outstanding appeal unless, in any case, a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, in which case that time limit applies.

#### **Appeals under these Regulations against decisions under the 2007 Regulations or former PPC or waste legislation**

99.—(1) An appeal may be made under these Regulations against a decision mentioned in regulation 97 if, by the relevant time, the time for making an appeal under the 2007 Regulations or former PPC or waste legislation had not expired.

(2) If an appeal is made under these Regulations against a decision mentioned in regulation 97, the applicable time limit for giving notice of appeal runs from the date the decision was made under the 2007 Regulations or former PPC or waste legislation.

(3) In this regulation, the applicable time limit is—

- (a) the time limit in paragraph 3 of Schedule 6; or
- (b) if a longer time limit applied under the 2007 Regulations or former PPC or waste legislation, that time limit.

#### **Other existing notices and instruments**

100.—(1) On the coming into force of these Regulations—

- (a) an existing notice served under regulation 26(3) of the PPC Regulations is taken to be served under regulation 57(3);
- (b) an existing notice served under regulation 28(1) of the PPC Regulations is taken to be a notice served under regulation 60(1); and
- (c) any existing instrument served or given under the 2007 Regulations and not otherwise provided for in this Chapter is taken to be served or given under these Regulations.

(2) An existing notice or existing instrument remains in force—

- (a) for the period (if any) specified in it; or
- (b) until it is withdrawn, revoked or expires under these Regulations.

(3) In this regulation, “instrument” has the meaning given in regulation 10 of the 2007 Regulations.

#### **Existing directions under the 2007 Regulations**

**101.**—(1) On the coming into force of these Regulations, any existing direction given to a regulator by the appropriate authority under any of the following provisions of the 2007 Regulations is taken to be given under the equivalent provision in these Regulations—

- (a) regulation 31(7);
- (b) regulation 33(1);
- (c) regulation 47(1) or (3);
- (d) regulation 56(1);
- (e) regulation 61;
- (f) regulation 62(1) or (6);
- (g) regulation 63(2).

(2) Any information excluded from a public register pursuant to an existing direction given under regulation 47(1) of the 2007 Regulations is taken to be notified under regulation 47(2) of these Regulations.

#### **Public registers**

**102.**—(1) Any information that, at the relevant time, was contained in a public register maintained by a regulator under the 2007 Regulations, or was deemed to be information kept on that register, is taken to be information contained in the public register maintained by the regulator under these Regulations.

(2) Any information that, at the relevant time, was within a regulator’s possession for the purposes of regulation 46 of the 2007 Regulations but was not entered on a public register under those Regulations is taken to be in the regulator’s possession for the purposes of these Regulations and must be entered on the register as soon as reasonably practicable.

#### **Existing exempt waste operations**

**103.**—(1) This regulation applies to any establishment or undertaking which was carrying on an exempt waste operation under the 2007 Regulations as in force on 5th April 2010.

(2) The establishment or undertaking is taken to carry on an exempt waste operation under these Regulations until—

- (a) the date mentioned in paragraph (3); or
- (b) if before that date the waste operation ceases to be an exempt waste operation within the meaning of the 2007 Regulations as in force on 5th April 2010, the date on which it ceases to be such.

(3) The date mentioned in this paragraph is—

- (a) if an application for the grant or variation of an environmental permit is made in relation to the waste operation on or before the date shown in the table set out below for the operation (“the indicated date”)—
  - (i) if the application is granted, the date of the grant,
  - (ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn, or

- (iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations;
- (b) if the establishment or undertaking seeks to be registered in relation to the waste operation on or before the indicated date, the date of registration; or
- (c) otherwise, the indicated date.

Waste operation	Date
A waste operation described in paragraph 9, 10, 12 or 19 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land	1st October 2011
A waste operation described in paragraph 13 or 21 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land	6th April 2012
A waste operation described in paragraph 7 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of agricultural waste on agricultural land	1st October 2012
A waste operation described in paragraph 4 to 6, 11, 14, 15, 17, 18, 20, 22, 23, 25, 29 to 32, 38, 40 to 42 or 46 of Part 1 of previous Schedule 3 that does not involve the disposal or recovery of waste on agricultural land	1st October 2012
A waste operation described in paragraph 2, 3, 8, 24 or 43 to 45 of Part 1 of previous Schedule 3	1st October 2013
A waste operation described in paragraph 7, 9, 10, 12, 13, 16, 19, 21, 28, 36, 37 or 47 of Part 1 of previous Schedule 3 that involves the disposal or recovery of agricultural waste on agricultural land	1st October 2013
Any other waste operation described in Part 1 of previous Schedule 3 that involves the disposal or recovery of waste on agricultural land	1st October 2013

(4) In this regulation—

“agricultural land” means land used for agriculture within the meaning of section 109(3) of the Agriculture Act 1947<sup>(43)</sup>;

“previous Schedule 3” means Schedule 3 to the 2007 Regulations as in force on 5th April 2010;

“registered” has the meaning given in paragraph 1 of Schedule 2; and

“relevant particulars” has the meaning given in paragraph 6(3) of Schedule 2.

### Existing Part A(1) installations

**104.** On the coming into force of these Regulations, an installation that, at the relevant time, carried on a Part A(1) activity under the 2007 Regulations by virtue of paragraph 2(4) of Part 1 of Schedule 1 to those Regulations is taken to be a Part A(1) installation for the purpose of these Regulations.

(43) 1947 c. 48.

### Existing mining waste operations

**105.**—(1) Regulation 12(1) does not apply to an existing mining waste operation involving an existing mining waste facility until the date mentioned in paragraph (2).

(2) The date is—

- (a) if an application for the grant or variation of an environmental permit is made on or before 1st May 2011—
  - (i) if the application is granted, the date of the grant,
  - (ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn,
  - (iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations, or
  - (iv) if the application is for the grant or variation of an environmental permit in relation to a Category A mining waste facility that is an existing mining waste facility and the application is refused pursuant to paragraph 14(2) of Schedule 20, the date of the refusal; or
- (b) if no such application is made, 1st May 2011.

(3) Where an existing mining waste operation is not covered by paragraph (1), regulation 12(1) does not apply to that operation until the date mentioned in paragraph (4).

(4) The date is—

- (a) if an application for the grant or variation of an environmental permit is made on or before 30th December 2010—
  - (i) if the application is granted, the date of the grant,
  - (ii) if the application is refused, and the applicant appeals against the refusal, the date the appeal is determined or withdrawn, or
  - (iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought under these Regulations; or
- (b) if no such application is made, 30th December 2010.

(5) In this regulation, “existing mining waste operation” means a mining waste operation subsisting on 1st May 2008.

## Chapter 5

### Savings and consequential provisions

#### Savings

**106.**—(1) Despite the revocation of the 2007 Regulations, and the revocation of regulation 12(10) of the PPC Regulations by the 2007 Regulations, any condition implied in a permit by that regulation that continued in effect under the 2007 Regulations and had effect at the relevant time continues to have effect under these Regulations.

(2) Despite the revocation of regulation 44 of the End-of-Life Vehicles Regulations 2003 by the 2007 Regulations, any modification to a waste management licence that continued in effect under the 2007 Regulations and had effect at the relevant time continues to have effect under these Regulations.

(3) Despite the amendments made by regulation 6 of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which amend regulation 38 of

the 2007 Regulations), regulation 38(2) of the 2007 Regulations, as in force at the relevant time, continues in force for the purposes of regulation 103 of these Regulations.

(4) Despite the amendments made by regulation 13(2) of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which amend section 41 of the 1995 Act by omitting subsection (2A)(44) and by omitting the definition of “relevant environmental licence” in subsection (10)), those subsections, as in force at the relevant time, continue in force for the purposes of regulation 103 of these Regulations.

(5) Despite the substitution made by regulation 13(3) of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009 (which substitutes paragraph (j) in the definition of “environmental licence” in section 56(1) of the 1995 Act), the definition of “environmental licence” in that paragraph, as in force at the relevant time, continues in force for the purposes of regulation 103 of these Regulations.

### Consequential amendments

107. Schedule 26 (consequential amendments) has effect.

### Revocations

108.—(1) The instruments in Schedule 27 (revocations) are revoked to the extent specified.

(2) Despite the revocation of regulations 10 and 11 of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009(45), and of Schedules 2 and 3 to the 2007 Regulations, those Schedules (as in force at the relevant time) continue in force for the purpose of regulation 103 of these Regulations.

(3) Despite the revocation of regulation 68A of the 2007 Regulations(46), a condition implied in a permit by that regulation that had effect at the relevant time continues to have effect under these Regulations.

(4) Despite the revocation of regulation 69(5) and (6) of the 2007 Regulations, a condition implied in a permit by regulation 69(6) of those Regulations that had effect at the relevant time continues to have effect under these Regulations.

### Repeals

109.—(1) The enactments in Schedule 28 (repeals) are repealed to the extent specified.

(2) Despite its repeal by these Regulations, Schedule 10 to the 1991 Act continues in force, subject to the following modifications, insofar as it provides for the vesting of a discharge consent or groundwater permit on the death of the holder of a consent or permit—

- (a) a discharge consent or groundwater permit is taken to be an environmental permit authorising the carrying on of a stand-alone water discharge activity or stand-alone groundwater activity;
- (b) the holder of the consent or groundwater permit is taken to be the operator of the regulated facility;
- (c) the vesting of a consent or groundwater permit in a person on the death of the holder of a consent or groundwater permit is taken to be the granting of an environmental permit under these Regulations;
- (d) the person in whom a consent or groundwater permit vests is taken to be the operator of the regulated facility;

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(44) Subsection (2A) was inserted by [S.I. 2006/937](#).

(45) [S.I. 2009/3381](#).

(46) Regulation 68A was inserted by [S.I. 2009/890](#).

(e) a making of a discharge is taken to be the carrying on of a water discharge activity or groundwater activity, whichever is applicable in the circumstances.

(3) Despite its repeal by these Regulations, section 88 of the 1991 Act continues in force so far as necessary for continuing to give effect to Schedule 10 to that Act.

	<i>Name</i>
	Parliamentary Under Secretary of State
	Department for Environment, Food and Rural
Date	Affairs
	<i>Name</i>
	[title of Minister]
Date	one of the Welsh Ministers

SCHEDULE 1

Regulation 2(1)

Activities, installations and mobile plant

PART 1

Interpretation and application: general

**Interpretation**

**1. In this Schedule—**

“activity” means, subject to this Part, an activity listed in Part 2 of this Schedule;

“background quantity” means, in relation to the release of a substance resulting from an activity, such quantity of that substance as is present in—

- (a) water supplied to the site where the activity is carried on,
- (b) water abstracted for use in the activity, and
- (c) precipitation onto the site on which the activity is carried on;

“controlled waters” has the meaning given in section 104 of the 1991 Act;

“directly associated activity”, in relation to an activity other than a SED activity, means an operation which—

- (a) has a technical connection with the activity,
- (b) is carried on on the same site as the activity, and
- (c) could have an effect on pollution;

“installation” means (except where used in the definition of “excluded plant” in Section 5.1 of Part 2 of this Schedule)—

- (a) a stationary technical unit where one or more activities are carried on, and
- (b) any other location on the same site where any other directly associated activities are carried on,

and references to an installation include references to part of an installation;

“net rated thermal input” means the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal;

“Part A activity” means a Part A(1) activity or a Part A(2) activity;

“Part A(1) activity” means an activity falling within Part A(1) of any Section in Part 2 of this Schedule;

“Part A(2) activity” means an activity falling within Part A(2) of any Section in Part 2 of this Schedule;

“Part A installation” means a Part A(1) installation or a Part A(2) installation;

“Part A(1) installation” means an installation where there is carried on—

- (a) a Part A(1) activity,
- (b) a Part A(1) activity and either a Part A(2) activity or a Part B activity, or
- (c) a Part A(1) activity, a Part A(2) activity and a Part B activity;

“Part A(2) installation” means an installation, not being a Part A(1) installation, where there is carried on—

- (a) a Part A(2) activity, or
  - (b) a Part A(2) activity and a Part B activity;
- “Part A mobile plant” means Part A(1) mobile plant or Part A(2) mobile plant;
- “Part A(1) mobile plant” means plant, other than an installation, that is used to carry on—
- (a) a Part A(1) activity,
  - (b) a Part A(1) activity and either a Part A(2) activity or a Part B activity, or
  - (c) a Part A(1) activity, a Part A(2) activity and a Part B activity;
- “Part A(2) mobile plant” means plant, other than an installation, that is used to carry on—
- (a) a Part A(2) activity, or
  - (b) a Part A(2) activity and a Part B activity;
- “Part B activity” means an activity falling within Part B of any Section in Part 2 of this Schedule;
- “Part B installation” means, subject to Sections 2.2, 5.1 and 6.4 of Part 2 of this Schedule, an installation, not being a Part A installation, where a Part B activity is carried on; and
- “Part B mobile plant” means plant, not being Part A mobile plant, that is designed to move or be moved whether on roads or other land and that is used to carry on a Part B activity.

#### **Activities falling within more than one Part description**

2.—(1) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(1) and a description in Part A(2) that activity must be regarded as falling only within that description which fits it most aptly.

(2) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(1) and a description in Part B (other than a description in Section 7) that activity must be regarded as falling only within the description in Part A(1).

(3) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(2) and a description in Part B (other than a description in Section 7) that activity must be regarded as falling only within the description in Part A(2).

#### **Application of activities falling within Sections 1.1 to 6.9 of Part 2**

3. An activity is not to be taken to be an activity falling within Sections 1.1 to 6.9 of Part 2 of this Schedule if it is—

- (a) carried on in a working museum to demonstrate an industrial activity of historic interest;
- (b) carried on for educational purposes in a school as defined in section 4(1) of the Education Act 1996<sup>(47)</sup>;
- (c) carried on at an installation or by means of Part A mobile plant or Part B mobile plant solely used for research, development and testing of new products and processes;
- (d) the running on or within an aircraft, hovercraft, mechanically propelled road vehicle, railway locomotive or ship or other vessel of an engine which propels or provides electricity for it;
- (e) the running of an engine in order to test it before it is installed or in the course of its development; or
- (f) carried on as a domestic activity in connection with a private dwelling.

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<sup>(47)</sup> 1996 c. 56; section 4(1) was substituted by the Education Act 1997 (c. 44), section 51.

#### **Capacity: Part A(1) and A(2) descriptions**

4.—(1) This paragraph applies for the purpose of determining whether an activity carried on in a stationary technical unit falls within a description in Part A(1) or Part A(2) of Part 2 of this Schedule which refers to capacity, other than design holding capacity.

(2) Where a person carries out several activities falling within the same description in Part A(1) or Part A(2) in different parts of the same stationary technical unit or in different stationary technical units on the same site, the capacities of each part or unit, as the case may be, must be added together and the total capacity must be attributed to each part or unit for the purpose of determining whether the activity carried on in each part or unit falls within a description in Part A(1) or Part A(2).

(3) For the purpose of sub-paragraph (2), no account must be taken of capacity when determining whether activities fall within the same description.

(4) Where an activity falls within a description in Part A(1) or Part A(2) by virtue of this paragraph it is not to be taken to be an activity falling within a description in Part B (other than a description in Section 7).

#### **Operation below thresholds: effect on the installation**

5. Where an operator is authorised by an environmental permit to operate an installation at which Part A(1) activities, Part A(2) activities or Part B activities which are described in Part 2 of this Schedule by reference to a threshold (whether in terms of capacity or otherwise) are carried on, the installation does not cease to be a Part A(1) installation, a Part A(2) installation or a Part B installation, as the case may be, by virtue of the installation being operated below the relevant threshold unless the permit ceases to have effect in accordance with these Regulations.

#### **Application of Part B activities: releases into the air**

6.—(1) Subject to sub-paragraph (2), an activity is not to be taken to be a Part B activity within Part 2 of this Schedule if it cannot result in the release into the air of a substance listed in sub-paragraph (3) or there is no likelihood that it will result in the release into the air of any such substance except in a quantity which is so trivial that it is incapable of causing pollution or its capacity to cause pollution is insignificant.

(2) Sub-paragraph (1) does not apply to—

- (a) a SED activity; or
- (b) an activity which may give rise to an offensive smell noticeable outside the site where the activity is carried on.

(3) References to, or to the release into the air of, a substance listed in this paragraph are to any of the following substances—

- (a) oxides of sulphur and other sulphur compounds;
- (b) oxides of nitrogen and other nitrogen compounds;
- (c) oxides of carbon;
- (d) organic compounds and partial oxidation products;
- (e) metals, metalloids and their compounds;
- (f) asbestos (suspended particulate matter and fibres), glass fibres and mineral fibres;
- (g) halogens and their compounds;
- (h) phosphorus and its compounds;
- (i) particulate matter.

### References to releases into water

7. References in Part 2 of this Schedule to a substance, or to the release into water of a substance, listed in this paragraph or to its release in a quantity which, in any 12-month period, is greater than the background quantity by an amount specified in this paragraph are references to the following substances and amounts—

**Table**

<i>Substance</i>	<i>Amount greater than the background quantity (in grammes) in any 12-month period</i>
Mercury and its compounds	200 (expressed as metal)
Cadmium and its compounds	1,000 (expressed as metal)
All isomers of hexachlorocyclohexane	20
All isomers of DDT	5
Pentachlorophenol and its compounds	350 (expressed as PCP)
Hexachlorobenzene	5
Hexachlorobutadiene	20
Aldrin	2
Dieldrin	2
Endrin	1
Polychlorinated Biphenyls	1
Dichlorvos	0.2
1, 2—Dichloroethane	2,000
All isomers of trichlorobenzene	75
Atrazine	350*
Simazine	350*
Tributyltin compounds	4 (expressed as TBT)
Triphenyltin compounds	4 (expressed as TPT)
Trifluralin	20
Fenitrothion	2
Azinphos-methyl	2
Malathion	2
Endosulfan	0.5

\* Where both Atrazine and Simazine are released, the figure for both substances in aggregate is 350 grammes.

### References to certain substances

8.—(1) References in Part 2 of this Schedule to a substance listed in this paragraph are to any of the following substances—

- (a) alkali metals and their oxides and alkaline earth metals and their oxides;
- (b) organic solvents;
- (c) azides;
- (d) halogens and their covalent compounds;
- (e) metal carbonyls;
- (f) organo-metallic compounds;
- (g) oxidising agents;
- (h) polychlorinated dibenzofuran and any congener thereof;
- (i) polychlorinated dibenzo-p-dioxin and any congener thereof;
- (j) polyhalogenated biphenyls, terphenyls and naphthalenes;
- (k) phosphorus;
- (l) pesticides.

(2) In this paragraph, “pesticide” means any chemical substance or preparation prepared or used for destroying any pest, including those used for—

- (a) protecting plants or wood or other plant products from harmful organisms;
- (b) regulating the growth of plants;
- (c) giving protection against harmful creatures or rendering such creatures harmless;
- (d) controlling organisms with harmful or unwanted effects on water systems, buildings or other structures, or on manufactured products; or
- (e) protecting animals against ectoparasites.

## PART 2

### Activities

#### CHAPTER 1

##### Energy activities

##### SECTION 1.1

###### *Combustion activities*

##### Interpretation of Section 1.1

**1.** In this Section “recovered oil” means waste oil which has been processed before being used.

###### **Part A(1)**

- (a) Burning any fuel in an appliance with a rated thermal input of 50 or more megawatts.
- (b) Unless carried on as part of a Part A(2) or Part B activity, burning any—
  - (i) waste oil;
  - (ii) recovered oil; or
  - (iii) fuel manufactured from, or comprising, any other waste,  
in an appliance with a rated thermal input of 3 or more megawatts, but less than 50 megawatts.

##### Interpretation and application of Part A(1)

1. For the purpose of Part A(1)(a) of this Section, where 2 or more appliances with an aggregate rated thermal input of 50 megawatts or more are operated on the same site by the same operator those appliances must be treated as a single appliance with a rated thermal input of 50 megawatts or more.

2. Nothing in this Part of this Section applies to burning fuels in an appliance installed on an offshore platform situated on, above or below those parts of the sea adjacent to England and Wales from the low water mark to the seaward baseline of the United Kingdom territorial sea.

3. In paragraph 2, “offshore platform” means any fixed or floating structure which—
- (a) is used for the purposes of or in connection with the production of petroleum; and
  - (b) in the case of a floating structure, is maintained on a station during the course of production,

but does not include any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs.

4. In paragraph 3, “petroleum” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

5. In Part A(1)(b)(iii) of this Section, “fuel” excludes gas produced by biological degradation of waste in a landfill that is not listed in Part 2 of this Schedule.

#### **Part B**

Unless falling within Part A(1)(a) of this Section—

- (a) Burning any fuel (other than a fuel mentioned in Part A(1)(b)) in—
  - (i) a boiler;
  - (ii) a furnace;
  - (iii) a gas turbine; or
  - (iv) a compression ignition engine,
 with a net rated thermal input of 20 or more megawatts, but a rated thermal input of less than 50 megawatts.
- (b) Burning any—
  - (i) waste oil;
  - (ii) recovered oil;
  - (iii) solid fuel which has been manufactured from waste by an activity involving the application of heat,
 in an appliance with a rated thermal input of less than 3 megawatts.
- (c) Burning fuel manufactured from or including waste (other than a fuel mentioned in paragraph (b)) in an appliance with a net rated thermal input of 0.4 or more megawatts, but a rated thermal input of less than 3 megawatts.
- (d) Burning fuel manufactured from or including waste (other than a fuel mentioned in paragraph (b)) in 2 or more appliances which have a combined net rated thermal input of 0.4 or more megawatts, but a rated thermal input of less than 3 megawatts.

#### Interpretation and application of Part B

1. Part B does not apply to any activity falling within Part A(1) or Part A(2) of Section 5.1.

2. In Part B(c) or (d) of this Section, “fuel” does not include gas produced by biological degradation of waste.

#### SECTION 1.2

### *Gasification, Liquefaction and Refining Activities*

#### **Part A(1)**

- (a) Refining gas where this is likely to involve the use of 1,000 or more tonnes of gas in any 12-month period.
- (b) Reforming natural gas.
- (c) Operating coke ovens.
- (d) Coal or lignite gasification.
- (e) Producing gas from oil or other carbonaceous material (or from mixtures of oil or other carbonaceous material), other than from sewage, unless the production is carried on as part of an activity which is a combustion activity (whether or not that combustion activity is described in Section 1.1).
- (f) Purifying or refining any product of any of the activities falling within paragraphs (a) to (e) or converting it into a different product.
- (g) Refining mineral oils.
- (h) The loading, unloading, handling or storage of, or the physical, chemical or thermal treatment of—
  - (i) crude oil;
  - (ii) stabilised crude petroleum;
  - (iii) crude shale oil;
  - (iv) where related to another activity described in this paragraph, any associated gas or condensate; or
  - (v) emulsified hydrocarbons intended for use as a fuel.
- (i) The further refining, conversion or use (otherwise than as a fuel or solvent) of the product of any activity falling within paragraph (g) or (h) in the manufacture of a chemical.
- (j) Activities involving the pyrolysis, carbonisation, distillation, liquefaction, gasification, partial oxidation or other heat treatment of—
  - (i) coal (other than the drying of coal);
  - (ii) lignite;
  - (iii) oil;
  - (iv) other carbonaceous material; or
  - (v) mixtures of any of these,  
otherwise than with a view to making charcoal.
- (k) Odourising natural gas or liquefied petroleum gas where that activity is related to a Part A activity.

#### Interpretation and application of Part A(1)

**1.** Part A(1)(j) does not include—

- (a) the use of any substance as a fuel;
- (b) the incineration of any substance as a waste;
- (c) any activity for the treatment of sewage or sewage sludge.

**2.** In Part A(1)(j), the heat treatment of oil, other than distillation, does not include the heat treatment of waste oil or waste emulsions containing oil in order to recover the oil from aqueous emulsions.

3. In Part A(1), “carbonaceous material” includes such materials as charcoal, coke, peat, rubber and wood, but does not include wood which has not been chemically treated.

**Part A(2)**

(a) Refining gas where this activity does not fall within Part A(1)(a) of this Section.

**Part B**

- (a) Blending odorant for use with natural gas or liquefied petroleum gas.
- (b) The storage of petrol in stationary storage tanks at a terminal, or the loading or unloading at a terminal of petrol into or from road tankers, rail tankers or inland waterway vessels.
- (c) The unloading of petrol into stationary storage tanks at a service station, if the total quantity of petrol unloaded into such tanks at the service station in any 12-month period is likely to be 500m<sup>3</sup> or more.
- (d) Motor vehicle refuelling activities at an existing service station after the prescribed date, if the petrol refuelling throughput at the existing service station in any 12-month period is, or is likely to be, 3500m<sup>3</sup> or more.
- (e) Motor vehicle refuelling activities at a new service station, if the petrol refuelling throughput at the service station in any 12-month period is likely to be 500m<sup>3</sup> or more.

Interpretation of Part B

1. In Part B—

“existing service station” means a service station—

- (a) which was put into operation; or
- (b) for which planning permission under the Town and Country Planning Act 1990(48) was granted,

before 31st December 2009;

“inland waterway vessel” means a vessel, other than a sea-going vessel, having a total dead weight of 15 or more tonnes;

“new service station” means a service station which is put into operation on or after 31st December 2009, other than an existing service station;

“petrol” means any petroleum derivative (other than liquefied petroleum gas), with or without additives, having a Reid vapour pressure of 27.6 or more kilopascals, which is intended for use as a fuel for motor vehicles;

“prescribed date” means—

- (a) if an application for the grant or variation of an environmental permit was made under the 2007 Regulations on or before 1st January 2010—
  - (i) if the application was granted, the date of grant,
  - (ii) if the application was refused and the applicant appeals against the refusal, the date of the appeal determination or the date the appeal is withdrawn, or
  - (iii) if the application was refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could be brought; or
- (b) if no such application is made, 1st January 2010;

“service station” means any premises where petrol is dispensed to motor vehicle fuel tanks from stationary storage tanks;

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(48) 1990 c. 8.

“terminal” means any premises which are used for the storage and loading of petrol into road tankers, rail tankers or inland waterway vessels.

2. Any other expressions used in Part B which are also used in Directive [94/63/EC](#) on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations<sup>(49)</sup> have the same meaning as in that Directive.

## CHAPTER 2

### Production and Processing of Metals

#### SECTION 2.1

##### *Ferrous Metals*

#### Interpretation of Section 2.1

1. In this Section, “ferrous alloy” means an alloy of which iron is the largest constituent, or equal to the largest constituent, by weight, whether or not that alloy also has a non-ferrous metal content greater than any percentage specified in Section 2.2.

##### **Part A(1)**

- (a) Roasting or sintering metal ore, including sulphide ore, or any mixture of iron ore with or without other materials.
- (b) Producing, melting or refining iron or steel or any ferrous alloy, including continuous casting, except where the only furnaces used are—
  - (i) electric arc furnaces with a designed holding capacity of less than 7 tonnes, or
  - (ii) cupola, crucible, reverbatory, rotary, induction, vacuum, electro-slag or resistance furnaces.
- (c) Processing ferrous metals and their alloys by using hot-rolling mills with a production capacity of more than 20 tonnes of crude steel per hour.
- (d) Loading, unloading or otherwise handling or storing more than 500,000 tonnes in total in any 12-month period of iron ore, except in the course of mining operations, or burnt pyrites.

##### **Part A(2)**

- (a) Unless falling within Part A(1)(b) of this Section, producing pig iron or steel, including continuous casting, in a plant with a production capacity of more than 2.5 tonnes per hour.
- (b) Operating hammers in a forge, the energy of which is more than 50 kilojoules per hammer, where the calorific power used is more than 20 megawatts.
- (c) Applying protective fused metal coatings with an input of more than 2 tonnes of crude steel per hour.
- (d) Casting ferrous metal at a foundry with a production capacity of more than 20 tonnes per day.

##### **Part B**

- (a) Unless falling within Part A(1)(b) of this Section, producing pig iron or steel, including continuous casting, in a plant with a production capacity of 2.5 or less tonnes per hour.
- (b) Unless falling within Part A(2)(a) or (d) of this Section, producing, melting or refining iron or steel or any ferrous alloy (other than producing pig iron or steel, including continuous casting) using—

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<sup>(49)</sup> OJ No L 365, 31.12.1994, p 24, as amended by Regulation [\(EC\) No 1882/2003](#) (OJ No L 284, 31.10.2003, p 1).

- (i) one or more electric arc furnaces, none of which has a designed holding capacity of 7 or more tonnes; or
- (ii) a cupola, crucible, reverberatory, rotary, induction, electro-slag or resistance furnace.
- (c) Desulphurising iron, steel or any ferrous alloy.
- (d) Heating iron, steel or any ferrous alloy (whether in a furnace or other appliance) to remove grease, oil or any other non-metallic contaminant (including such operations as the removal by heat of plastic or rubber covering from scrap cable) unless—
  - (i) it is carried on in one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a rated thermal input of less than 0.2 megawatts;
  - (ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant; and
  - (iii) it is not related to any other activity falling within this Part of this Section.
- (e) Unless falling within Part A(1) or Part A(2) of this Section, casting iron, steel or any ferrous alloy from deliveries of 50 or more tonnes of molten metal.

## SECTION 2.2

### *Non-Ferrous Metals*

#### Interpretation and application of Section 2.2

1. In this Section “non-ferrous metal alloy” means an alloy which is not a ferrous alloy, as defined in Section 2.1.
2. Part A(1)(c) to (h) and Part B do not apply to hand soldering, flow soldering or wave soldering.

#### **Part A(1)**

- (a) Unless falling within Part A(2) of this Section, producing non-ferrous metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic activities.
- (b) Melting, including making alloys, of non-ferrous metals, including recovered products (such as refining or foundry casting) where—
  - (i) the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals; and
  - (ii) any furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 or more tonnes.
- (c) Except where the activity is related to an activity described in Part A(2)(a), or Part B(a), (d) or (e) of this Section, refining any non-ferrous metal or alloy, other than the electrolytic refining of copper.
- (d) Producing, melting or recovering by chemical means or by the use of heat, lead or any lead alloy, if—
  - (i) the activity may result in the release into the air of lead; and
  - (ii) in the case of lead alloy, the percentage by weight of lead in the alloy in molten form is more than 23 per cent if the alloy contains copper and 2 per cent in other cases.
- (e) Recovering any gallium, indium, palladium, tellurium or thallium if the activity may result in their release into the air.

- (f) Producing, melting or recovering (whether by chemical means or by electrolysis or by the use of heat) cadmium or mercury or any alloy containing more than 0.05 per cent by weight of either of those metals or both in aggregate.
- (g) Mining zinc- or tin-bearing ores where the activity may result in the release into water of cadmium or any compound of cadmium in a concentration which is greater than the background concentration.
- (h) Manufacturing or repairing involving the use of beryllium or selenium or an alloy containing one or both of those metals, if the activity may result in the release into the air of any substance in paragraph 6(3) of Part 1 of this Schedule; but an activity does not fall within this paragraph by reason of it involving an alloy that contains beryllium if that alloy in molten form contains less than 0.1 per cent by weight of beryllium and the activity falls within Part B(a) or (d) of this Section.
- (i) Pelletising, calcining, roasting or sintering any non-ferrous metal ore or any mixture of such ore and other materials.

#### Interpretation of Part A(1)

1. In Part A(1)(g), “background concentration” means any concentration of cadmium or any compound of cadmium which would be present in the release irrespective of any effect the activity may have had on the composition of the release and includes such concentration of those substances as is present in—

- (a) water supplied to the site where the activity is carried on;
- (b) water abstracted for use in the activity; and
- (c) precipitation onto the site on which the activity is carried on.

#### Part A(2)

- (a) Melting, including making alloys, of non-ferrous metals, including recovered products (such as refining or foundry casting) where—
  - (i) the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals, and no furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 or more tonnes; or
  - (ii) the plant uses a vacuum furnace of any design holding capacity.

#### Part B

- (a) Melting, including making alloys, of non-ferrous metals (other than tin or any alloy which in molten form contains 50 per cent or more by weight of tin), including recovered products (such as refining or foundry casting) in plant with a melting capacity of 4 tonnes or less per day for lead or cadmium or 20 tonnes or less per day for all other metals.
- (b) The heating in a furnace or any other appliance of any non-ferrous metal or non-ferrous metal alloy for the purpose of removing grease, oil or any other non-metallic contaminant, including such operations as the removal by heat of plastic or rubber covering from scrap cable, if not related to another activity described in this Part of this Section; but an activity does not fall within this paragraph if—
  - (i) it involves the use of one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a net rated thermal input of less than 0.2 megawatts; and
  - (ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant.
- (c) Melting zinc or a zinc alloy in conjunction with a galvanising activity at a rate of 20 or less tonnes per day.

- (d) Melting zinc, aluminium or magnesium or an alloy of one or more of these metals in conjunction with a die-casting activity at a rate of 20 or less tonnes per day.
- (e) Unless falling within Part A(1) or Part A(2) of this Section, the separation of copper, aluminium, magnesium or zinc from mixed scrap by differential melting.

#### Interpretation and application of Part B

1. When determining the extent of an installation carrying on an activity within Part B(e), any location where the associated storage or handling of scrap which is to be heated as part of that activity is carried on, other than a location where scrap is loaded into a furnace, is to be ignored.

#### SECTION 2.3

### *Surface Treating Metals and Plastic Materials*

#### **Part A(1)**

- (a) Unless falling within Part A(2) of this Section, surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than 30m<sup>3</sup>.

#### **Part A(2)**

- (a) Surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than 30m<sup>3</sup> and where the activity is carried on at the same installation as one or more activities falling within—
  - (i) Part A(2) or Part B of Section 2.1;
  - (ii) Part A(2) or Part B of Section 2.2; or
  - (iii) Part A(2) or Part B of Section 6.4.

#### **Part B**

- (a) Any process for the surface treatment of metal which is likely to result in the release into air of any acid-forming oxide of nitrogen and which does not fall within Part A(1) or Part A(2) of this Section.

### CHAPTER 3

#### Mineral Industries

#### SECTION 3.1

### *Production of Cement and Lime*

#### **Part A(1)**

- (a) Producing cement clinker or producing and grinding cement clinker.
- (b) Producing lime—
  - (i) in kilns or other furnaces with a production capacity of more than 50 tonnes per day; or
  - (ii) if the activity is likely to involve the heating in any 12-month period of 5,000 or more tonnes of calcium carbonate or calcium magnesium carbonate or both in aggregate.

#### **Part A(2)**

- (a) Unless falling with Part A(1) of this Section, grinding cement clinker.
- (b) Unless falling within Part A(1) of Section 2.1 or 2.2, grinding metallurgical slag in plant with a grinding capacity of more than 250,000 tonnes in any 12-month period.

### **Part B**

- (a) Storing, loading or unloading cement or cement clinker in bulk prior to further transportation in bulk.
- (b) Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready-mixed concrete and the manufacture of concrete blocks and other cement products.
- (c) Slaking lime for the purpose of making calcium hydroxide or calcium magnesium hydroxide.
- (d) Producing lime where the activity is not likely to involve the heating in any 12-month period of 5,000 or more tonnes of calcium carbonate or calcium magnesium carbonate or both in aggregate.

## SECTION 3.2

### *Activities Involving Asbestos*

#### Interpretation of Section 3.2

1. In this Section “asbestos” means any of the following fibrous silicates: actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.

#### **Part A(1)**

- (a) Producing asbestos or manufacturing products based on or containing asbestos.
- (b) Stripping asbestos from railway vehicles except—
  - (i) in the course of the repair or maintenance of the vehicle;
  - (ii) in the course of recovery operations following an accident; or
  - (iii) where the asbestos is permanently bonded in cement or in any other material (including plastic, rubber or resin).
- (c) Destroying a railway vehicle by burning if asbestos has been incorporated in, or sprayed on to, its structure.

#### **Part B**

- (a) Unless related to an activity falling within Part A(1) of this Section, the industrial finishing of—
  - (i) asbestos cement;
  - (ii) asbestos cement products;
  - (iii) asbestos fillers;
  - (iv) asbestos filters;
  - (v) asbestos floor coverings;
  - (vi) asbestos friction products;
  - (vii) asbestos insulating board;
  - (viii) asbestos jointing, packaging or reinforcement material;
  - (ix) asbestos packing;
  - (x) asbestos paper or card; or
  - (xi) asbestos textiles.

## SECTION 3.3

*Manufacturing Glass and Glass Fibre*

**Part A(1)**

- (a) Manufacturing glass fibre.
- (b) Manufacturing glass frit or enamel frit and its use in any activity where that activity is related to its manufacture and the aggregate quantity of such substances manufactured in any 12-month period is likely to be 100 or more tonnes.

**Part A(2)**

- (a) Manufacturing glass, unless falling within Part A(1) of this Section, where the melting capacity of the plant is more than 20 tonnes per day.

**Part B**

Unless falling within Part A(1) or Part A(2) of this Section—

- (a) Manufacturing glass at any location with the capacity to make 5,000 or more tonnes of glass in any 12-month period, and any activity involving the use of glass which is carried on at any such location in conjunction with its manufacture.
- (b) Manufacturing glass where the use of lead or any lead compound is involved.
- (c) Manufacturing any glass product where lead or any lead compound has been used in the manufacture of the glass except—
  - (i) making products from lead glass blanks; or
  - (ii) melting, or mixing with another substance, glass manufactured elsewhere to produce articles such as ornaments or road paint.
- (d) Polishing or etching glass or glass products in the course of any manufacturing activity if—
  - (i) hydrofluoric acid is used; or
  - (ii) hydrogen fluoride may be released into the air.
- (e) Manufacturing glass frit or enamel frit and its use in any activity where that activity is related to its manufacture.

SECTION 3.4

*Production of Other Mineral Fibres*

**Part A(1)**

- (a) Unless falling within Part A(1) or Part A(2) of Section 3.3, melting mineral substances in plant with a melting capacity of more than 20 tonnes per day.
- (b) Unless falling within Part A(1) of Section 3.3, producing any fibre from any mineral.

SECTION 3.5

*Other Mineral Activities*

**Part A(2)**

- (a) Manufacturing cellulose fibre reinforced calcium silicate board using unbleached pulp.

**Part B**

- (a) Unless falling within Part A(1) or Part A(2) of any Section, the crushing, grinding or other size reduction, other than the cutting of stone, or the grading, screening or heating of any designated mineral or mineral product except where the operation of the activity is unlikely to result in the release into the air of particulate matter.
- (b) Any of the following activities unless carried on at an exempt location—

- (i) crushing, grinding or otherwise breaking up coal, coke or any other coal product;
  - (ii) screening, grading or mixing coal, coke or any other coal product;
  - (iii) loading or unloading petroleum coke, coal, coke or any other coal product except unloading on retail sale.
- (c) The crushing, grinding or other size reduction, with machinery designed for that purpose, of bricks, tiles or concrete.
- (d) Screening the product of any activity described in paragraph (c).
- (e) Coating road stone with tar or bitumen.
- (f) Loading, unloading or storing pulverised fuel ash in bulk prior to further transportation in bulk.
- (g) The fusion of calcined bauxite for the production of artificial corundum.

#### Interpretation and application of Part B

##### 1. In Part B—

“coal” includes lignite;

“designated mineral or mineral product” means—

- (a) clay, sand or any other naturally occurring mineral other than coal;
- (b) metallurgical slag;
- (c) boiler or furnace ash produced from the burning of coal, coke or any other coal product;
- (d) gypsum which is a by-product of any activity;

“exempt location” means—

- (a) any premises used for the sale of petroleum coke, coal, coke or any coal product where the throughput of such substances at those premises in any 12-month period is in aggregate likely to be less than 10,000 tonnes; or
- (b) any premises to which petroleum coke, coal, coke or any coal product is supplied only for use there;

“retail sale” means sale to the final customer.

##### 2. Part B does not apply to any activity carried on underground.

#### SECTION 3.6

### *Ceramic Production*

#### **Part A(1)**

- (a) Manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—
  - (i) the kiln production capacity is more than 75 tonnes per day; or
  - (ii) the kiln capacity is more than 4m<sup>3</sup> and the setting density is more than 300 kg/m<sup>3</sup>, and a reducing atmosphere is used other than for the purposes of colouration.

#### **Part A(2)**

- (a) Unless falling within Part A(1) of this Section, manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—
  - (i) the kiln production capacity is more than 75 tonnes per day; or
  - (ii) the kiln capacity is more than 4m<sup>3</sup> and the setting density is more than 300 kg/m<sup>3</sup>.

**Part B**

- (a) Unless falling within Part A(1) or A(2) of this Section, firing heavy clay goods or refractory materials (other than heavy clay goods) in a kiln.
- (b) Vapour glazing earthenware or clay with salts.

## Interpretation of Part B

**1.** In Part B—

“clay” includes a blend of clay with ash, sand or other materials;

“refractory material” means material (such as fireclay, silica, magnesite, chrome-magnesite, sillimanite, sintered alumina, beryllia and boron nitride) which is able to withstand high temperatures and to function as a furnace lining or in other similar high temperature applications.

## CHAPTER 4

## The Chemical Industry

## Interpretation of Chapter 4

**1.** In Part A(1) of the Sections of this Chapter, “producing” means producing in a chemical plant by chemical processing for commercial purposes substances or groups of substances listed in the relevant Sections.

## SECTION 4.1

*Organic Chemicals*

## Interpretation of Section 4.1

**1.** In this Section, “pre-formulated resin or pre-formulated gel coat” means any resin or gel coat which has been formulated before being introduced into polymerisation or co-polymerisation activity, whether or not the resin or gel coat contains a colour pigment, activator or catalyst.

**Part A(1)**

- (a) Producing organic chemicals such as—
  - (i) hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);
  - (ii) organic compounds containing oxygen (for example alcohols, aldehydes, ketones, carboxylic acids, esters, ethers, peroxides, phenols, epoxy resins);
  - (iii) organic compounds containing sulphur (for example sulphides, mercaptans, sulphonic acids, sulphonates, sulphates and sulphones and sulphur heterocyclics);
  - (iv) organic compounds containing nitrogen (for example amines, amides, nitrous-, nitro- or azo-compounds, nitrates, nitriles, nitrogen heterocyclics, cyanates, isocyanates, di-isocyanates and di-isocyanate prepolymers);
  - (v) organic compounds containing phosphorus (for example substituted phosphines and phosphate esters);
  - (vi) organic compounds containing halogens (for example halocarbons, halogenated aromatic compounds and acid halides);
  - (vii) organometallic compounds (for example lead alkyls, Grignard reagents and lithium alkyls);
  - (viii) plastic materials (for example polymers, synthetic fibres and cellulose-based fibres);
  - (ix) synthetic rubbers;
  - (x) dyes and pigments;

- (xi) surface-active agents.
- (b) Producing any other organic compounds not described in paragraph (a).
- (c) Polymerising or co-polymerising any unsaturated hydrocarbon or vinyl chloride (other than a pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon) which is likely to involve, in any 12-month period, the polymerisation or co-polymerisation of 50 or more tonnes of any of those materials, or any combination of those materials in aggregate.
- (d) Any activity involving the use in any 12-month period of 1 or more tonnes of toluene di-isocyanate or other di-isocyanate of comparable volatility or, where partly polymerised, the use of partly polymerised di-isocyanates or prepolymers containing 1 or more tonnes of those monomers, if the activity may result in a release into the air which contains such a di-isocyanate monomer.
- (e) The flame bonding of polyurethane foams or polyurethane elastomers.
- (f) Recovering—
  - (i) carbon disulphide;
  - (ii) pyridine or any substituted pyridine.
- (g) Recovering or purifying acrylic acid, substituted acrylic acid or any ester of acrylic acid or of substituted acrylic acid.

#### **Part B**

- (a) Unless falling within Part A(1) of this Section, any activity where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12-month period of 5 tonnes or more of any di-isocyanate or of any partly polymerised di-isocyanate or, in aggregate, of both.
- (b) Cutting polyurethane foams or polyurethane elastomers with heated wires.
- (c) Any activity for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon, where the activity is likely to involve, in any 12-month period, the polymerisation or co-polymerisation of 100 or more tonnes of unsaturated hydrocarbon.
- (d) Unless falling within Part A(1) of this Section, any activity involving the use of toluene di-isocyanate or partly polymerised di-isocyanate if—
  - (i) less than 1 tonne of toluene di-isocyanate monomer is likely to be used in any 12-month period; and
  - (ii) the activity may result in a release into the air which contains toluene di-isocyanate.

#### SECTION 4.2

#### *Inorganic Chemicals*

##### **Part A(1)**

- (a) Producing inorganic chemicals such as—
  - (i) gases (for example ammonia, hydrogen chloride, hydrogen fluoride, hydrogen cyanide, hydrogen sulphide, oxides of carbon, sulphur compounds, oxides of nitrogen, hydrogen, oxides of sulphur, phosgene);
  - (ii) acids (for example chromic acid, hydrofluoric acid, hydrochloric acid, hydrobromic acid, hydroiodic acid, phosphoric acid, nitric acid, sulphuric acid, oleum and chlorosulphonic acid);

- (iii) bases (for example ammonium hydroxide, potassium hydroxide, sodium hydroxide);
  - (iv) salts (for example ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate, cupric acetate, ammonium phosphomolybdate);
  - (v) non-metals, metal oxides, metal carbonyls or other inorganic compounds (for example calcium carbide, silicon, silicon carbide, titanium dioxide);
  - (vi) halogens or interhalogen compounds comprising 2 or more of halogens, or any compound comprising one or more of those halogens and oxygen.
- (b) Unless falling within any other Section, any manufacturing activity which is likely to result in the release into the air of any hydrogen halide (other than the manufacture of glass or the coating, plating or surface treatment of metal) or which is likely to result in the release into the air or water of any halogen or any of the compounds mentioned in paragraph (a)(vi) (other than the treatment of water).
- (c) Unless falling within any other Section, any manufacturing activity involving the use of hydrogen cyanide or hydrogen sulphide.
- (d) Unless falling within any other Section, any manufacturing activity (other than the application of a glaze or vitreous enamel) involving the use of, or the use or recovery of, any compound of any of the following elements—
- (i) antimony;
  - (ii) arsenic;
  - (iii) beryllium;
  - (iv) gallium;
  - (v) indium;
  - (vi) lead;
  - (vii) palladium;
  - (viii) platinum;
  - (ix) selenium;
  - (x) tellurium;
  - (xi) thallium,
- where the activity may result in the release into the air of any of those elements or compounds or the release into water of any substance listed in paragraph 7 of Part 1 of this Schedule.
- (e) Recovering any compound of cadmium or mercury.
- (f) Unless falling within any other Section, any manufacturing activity involving the use of mercury or cadmium or any compound of either element or which may result in the release into air of either of those elements or their compounds.
- (g) Unless carried on as part of any other activity within this Schedule—
- (i) recovering, concentrating or distilling sulphuric acid or oleum;
  - (ii) recovering nitric acid;
  - (iii) purifying phosphoric acid.
- (h) Unless falling within any other Section, any activity (other than the combustion or incineration of carbonaceous material as defined in the Interpretation of Part A(1) of

Section 1.2) which is likely to result in the release into the air of any acid-forming oxide of nitrogen.

- (i) Unless carried on as part of any other activity within this Schedule, recovering ammonia.
- (j) Extracting any magnesium compound from sea water.

SECTION 4.3

*Chemical Fertiliser Production*

**Part A(1)**

- (a) Producing (including any blending which is related to their production) phosphorus-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers).
- (b) Converting chemical fertilisers into granules.

SECTION 4.4

*Plant Health Products and Biocides*

**Part A(1)**

- (a) Producing plant health products or biocides.
- (b) Formulating such products if this may result in the release into water of any substance listed in paragraph 7 of Part 1 of this Schedule in a quantity which, in any 12-month period, is greater than the background quantity by more than the amount specified in that paragraph for that substance.

SECTION 4.5

*Pharmaceutical Production*

**Part A(1)**

- (a) Producing pharmaceutical products using a chemical or biological process.
- (b) Formulating such products if this may result in the release into water of any substance listed in paragraph 7 of Part 1 of this Schedule in a quantity which, in any 12-month period, is greater than the background quantity by more than the amount specified in that paragraph for that substance.

SECTION 4.6

*Explosives Production*

**Part A(1)**

- (a) Producing explosives.

SECTION 4.7

*Manufacturing Activities Involving Carbon Disulphide or Ammonia*

**Part A(1)**

- (a) Unless falling within Part A(2) of Section 6.7, any manufacturing activity which may result in the release of carbon disulphide into the air.
- (b) Any activity for the manufacture of a chemical which may result in the release of ammonia into the air other than an activity in which ammonia is only used as a refrigerant.

SECTION 4.8

### *The Storage of Chemicals in Bulk*

#### **Part B**

- (a) The storage in tanks, other than in tanks for the time being forming part of a powered vehicle, of any of the substances listed below except where the total storage capacity of the tanks installed at the location in question in which the relevant substance may be stored is less than the figure specified below in relation to that substance—
- (i) one or more acrylates, 20 tonnes (in aggregate);
  - (ii) acrylonitrile, 20 tonnes;
  - (iii) anhydrous ammonia, 100 tonnes;
  - (iv) anhydrous hydrogen fluoride, 1 tonne;
  - (v) toluene di-isocyanate, 20 tonnes;
  - (vi) vinyl chloride monomer, 20 tonnes;
  - (vii) ethylene, 8,000 tonnes.

## CHAPTER 5

### Waste Management

#### SECTION 5.1

#### *Incineration and Co-incineration of Waste*

##### Interpretation of Section 5.1

**1.** In this Section—

“co-incineration” means the use of wastes as a regular or additional fuel in a co-incineration plant or the thermal treatment of waste for the purpose of disposal in a co-incineration plant;

“co-incineration plant” means any stationary or mobile plant whose main purpose is the generation of energy or production of material products, and—

- (a) which uses wastes as a regular or additional fuel; or
- (b) in which waste is thermally treated for the purpose of disposal.

If co-incineration takes place in such a way that the main purpose of the plant is not the generation of energy or production of material products but rather the thermal treatment of waste, the plant must be regarded as an incineration plant.

This definition covers the site and the entire plant including all co-incineration lines, waste reception, storage, on site pre-treatment facilities, waste-, fuel- and air-supply systems, boiler, facilities for the treatment of exhaust gases, on-site facilities for treatment or storage of residues and waste water, stack devices and systems for controlling incineration operations, recording and monitoring incineration conditions, but does not cover co-incineration in an excluded plant;

“excluded plant” means—

- (a) a plant treating only the following wastes—
  - (i) vegetable waste from agriculture and forestry,
  - (ii) vegetable waste from the food processing industry, if the heat generated is recovered,
  - (iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered,

- (iv) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood-preservatives or coating, and which includes in particular such wood waste originating from construction and demolition waste,
  - (v) cork waste,
  - (vi) radioactive waste,
  - (vii) animal carcasses as regulated by Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3rd October 2002 laying down health rules concerning animal by-products not intended for human consumption<sup>(50)</sup>, or
  - (viii) waste resulting from the exploration for, and the exploitation of, oil or gas resources from off-shore installations and incinerated on board the installation; or
- (b) an experimental plant used for research, development and testing in order to improve the incineration process and which treats less than 50 tonnes of waste per year;

“hazardous waste”, in relation to any solid or liquid waste, has the meaning given in regulation 6 of (in relation to England) the Hazardous Waste (England and Wales) Regulations 2005<sup>(51)</sup> or (in relation to Wales) regulation 6 of the Hazardous Waste (Wales) Regulations 2005<sup>(52)</sup>, but does not include—

- (a) combustible liquid wastes including waste oils, provided that they meet the following criteria—
- (i) the mass content of polychlorinated aromatic hydrocarbons, for example polychlorinated biphenyls or pentachlorinated phenol amounts to concentrations not higher than those set out in the relevant Community legislation,
  - (ii) these wastes are not rendered hazardous by virtue of containing other constituents listed in Schedule 2 to (in relation to England) the Hazardous Waste (England and Wales) Regulations 2005, or (in relation to Wales) Schedule 2 to the Hazardous Waste (Wales) Regulations 2005 in quantities or in concentrations which are inconsistent with the achievement of the objectives set out in Article 4 of the Waste Framework Directive, and
  - (iii) the net calorific value amounts to at least 30 MJ per kilogramme;
- (b) any combustible liquid wastes which cannot cause, in the flue gas directly resulting from their combustion, emissions other than those from gasoil as defined in Article 1(1) of Council Directive 93/12/EEC relating to the sulphur content of certain liquid fuels<sup>(53)</sup> or a higher concentration of emissions than those resulting from the combustion of gasoil as so defined;

“incineration plant” means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of wastes with or without recovery of the combustion heat generated, including—

- (a) the incineration by oxidation of waste; and
- (b) other thermal treatment processes such as pyrolysis, gasification or plasma processes in so far as the substances resulting from the treatment are subsequently incinerated.

This definition covers the site and the entire incineration plant including all incineration lines, waste reception, storage, on site pre-treatment facilities, waste-fuel and air-supply systems, boiler, facilities for the treatment of exhaust gases, on-site facilities for treatment or

<sup>(50)</sup> OJ No L 27, 10.10.2002, p 1.

<sup>(51)</sup> S.I. 2005/894.

<sup>(52)</sup> S.I. 2005/1806 (W. 138).

<sup>(53)</sup> OJ No L 74, 23.3.1993, p 81, as last amended by Directive 1999/32/EC (OJ No L 121, 11.5.1999, p 13).

storage of residues and waste water, stack, devices and systems for controlling incineration operations, recording and monitoring incineration conditions, but does not cover incineration in an excluded plant;

“non-hazardous waste” means waste which is not hazardous waste;

“relevant Community legislation” has the same meaning as in Article 3(2)(a)(i) of the Waste Incineration Directive;

“waste” means any solid or liquid waste as defined in Article 1(1)(a) of the Waste Framework Directive.

#### **Part A(1)**

- (a) The incineration of hazardous waste in an incineration plant.
- (b) Unless carried on as part of any other Part A(1) activity, the incineration of hazardous waste in a co-incineration plant.
- (c) The incineration of non-hazardous waste in an incineration plant with a capacity of 1 tonne or more per hour.
- (d) Unless carried on as part of any other activity in Part A(1), the incineration of hazardous waste in a plant which is not an incineration plant or a co-incineration plant.
- (e) Unless carried on as part of any other activity in Part A(1), the incineration of non-hazardous waste in a plant which is not an incineration plant or a co-incineration plant but which has a capacity of 1 tonne or more per hour.
- (f) The incineration, other than incidentally in the course of burning landfill gas or solid or liquid waste, of any gaseous compound containing halogens in a plant which is not an incineration plant or a co-incineration plant.

#### **Part A(2)**

- (a) The incineration of non-hazardous waste in an incineration plant with a capacity of less than 1 tonne per hour.
- (b) Unless carried on as part of any other Part A activity, the incineration of non-hazardous waste in a co-incineration plant.
- (c) The incineration of animal carcasses in a plant, which is not an incineration plant or a co-incineration plant, with a capacity of more than 10 tonnes per day but less than 1 tonne per hour.

#### **Part B**

- (a) The incineration of non-hazardous waste in a plant which is—
  - (i) not an incineration plant or a co-incineration plant, and
  - (ii) on premises where there is plant, other than incineration plant or co-incineration plant, which has an aggregate capacity of 50 kilogrammes or more per hour but less than 1 tonne per hour.
- (b) The cremation of human remains.

#### **Application of Part B**

1. When determining the extent of an installation carrying on an activity within Part B, any location of the following description is to be ignored: any location where the associated storage or handling of wastes and residues which are to be incinerated as part of that activity is carried on, other than a location where the associated storage or handling of animal remains intended for burning in an incinerator used wholly or mainly for the incineration of such remains or residues from the burning of such remains in such an incinerator is carried on.

#### **SECTION 5.2**

*Disposal of Waste by Landfill*

**Part A(1)**

- (a) The disposal of waste in a landfill—
  - (i) receiving more than 10 tonnes of waste in any day, or
  - (ii) with a total capacity of more than 25,000 tonnes,but excluding disposals in a landfill taking only inert waste.

SECTION 5.3

*Disposal of Waste other than by Incineration or Landfill*

**Part A(1)**

- (a) The disposal of hazardous waste (other than by incineration or landfill) in a facility with a capacity of more than 10 tonnes per day.
- (b) The disposal of waste oils (other than by incineration or landfill) in a facility with a capacity of more than 10 tonnes per day.
- (c) Disposal of non-hazardous waste in a facility with a capacity of more than 50 tonnes per day by—
  - (i) biological treatment, not being treatment specified in any paragraph other than paragraph D8 of Annex IIA to the Waste Framework Directive, which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12 in that Annex (D8), or
  - (ii) physico-chemical treatment, not being treatment specified in any paragraph other than paragraph D9 in Annex IIA to the Waste Framework Directive, which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12 in that Annex (for example, evaporation, drying, calcination, etc) (D9).

Interpretation and application of Part A(1)

1. In Part A(1)(b) “disposal” means the processing or destruction of waste oil as well as its storage and tipping above ground.
2. Part A(1) does not apply to the treatment, by means of mobile plant, of—
  - (a) waste soil; or
  - (b) contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters.
3. The reference to a D paragraph number in brackets at the end of Part A(1)(c)(i) and (ii) is a reference to the number of the corresponding paragraph in Annex IIA to the Waste Framework Directive (disposal operations).

SECTION 5.4

*Recovery of Waste*

**Part A(1)**

- (a) Recovering by distillation of any oil or organic solvent.
- (b) Cleaning or regenerating carbon, charcoal or ion exchange resins by removing matter which is, or includes, any substance listed in paragraphs 6 to 8 of Part 1 of this Schedule.
- (c) Unless carried on as part of any other Part A activity, recovering hazardous waste in a plant with a capacity of more than 10 tonnes per day by means of the following operations—

- (i) the use principally as a fuel or other means to generate energy (R1),
- (ii) solvent reclamation/regeneration (R2),
- (iii) recycling/reclamation of inorganic materials other than metals and metal compounds (R5),
- (iv) regeneration of acids or bases (R6),
- (v) recovering components used for pollution abatement (R7),
- (vi) recovery of components from catalysts (R8),
- (vii) oil re-refining or other reuses of oil (R9).

Interpretation and application of Part A(1)

1. Part A(1)(a) and (b) do not apply to any of the following activities, except where the activity involves distilling more than 100 tonnes per day—

- (a) distilling oil for the production or cleaning of vacuum pump oil;
- (b) an activity which is ancillary to and related to another activity, whether described in this Schedule or not, which involves the production or use of the substance which is recovered, cleaned or regenerated.

2. Part A(1) does not apply to the treatment, by means of mobile plant, of—

- (a) waste soil; or
- (b) contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters.

3. The reference to an R paragraph number in brackets at the end of Part A(1)(c)(i) to (vii) is a reference to the number of the corresponding paragraph in Annex IIB to the Waste Framework Directive (recovery operations).

SECTION 5.5

*The Production of Fuel from Waste*

**Part A(1)**

- (a) Making solid fuel (other than charcoal) from waste by any process involving the use of heat.

CHAPTER 6

Other Activities

SECTION 6.1

*Paper, Pulp and Board Manufacturing Activities*

**Part A(1)**

- (a) Producing, in industrial plant, pulp from timber or other fibrous materials.
- (b) Producing, in industrial plant, paper and board where the plant has a production capacity of more than 20 tonnes per day.
- (c) Any activity associated with making paper pulp or paper, including activities connected with the recycling of paper such as de-inking, if the activity may result in the release into water of any substance in paragraph 7 of Part 1 of this Schedule in a quantity which, in any 12-month period, is greater than the background quantity by more than the amount specified in that paragraph in relation to that substance.

Interpretation of Part A(1)

1. In Part A(1)(c), “paper pulp” includes pulp made from wood, grass, straw or similar materials and references to the making of paper are to the making of any product using paper pulp.

**Part A(2)**

- (a) Manufacturing wood particleboard, oriented strand board, wood fibreboard, plywood, cement-bonded particleboard or any other composite wood-based board.

SECTION 6.2

*Carbon Activities*

**Part A(1)**

- (a) Producing carbon or hard-burnt coal or electro-graphite by means of incineration or graphitisation.

SECTION 6.3

*Tar and Bitumen Activities*

**Part A(1)**

- (a) The following activities—
- (i) distilling tar or bitumen in connection with any process of manufacture, or
  - (ii) heating tar for the manufacture of electrodes or carbon-based refractory materials, where the activity is likely to involve the use in any 12-month period of 5 or more tonnes of tar or of bitumen or both in aggregate.

**Part B**

- (a) Any activity not falling within Part A(1) of this Section or of Section 6.2 involving—
- (i) heating, but not distilling, tar or bitumen in connection with any manufacturing activity, or
  - (ii) oxidising bitumen by blowing air through it, at plant where no other activities described in any Section in this Schedule are carried on, where the carrying on of the activity is likely to involve the use in any 12-month period of 5 or more tonnes of tar or bitumen or both in aggregate.

Interpretation of Part B

1. In Part B, “tar” and “bitumen” include pitch.

SECTION 6.4

*Coating Activities, Printing and Textile Treatments*

**Part A(1)**

- (a) Applying or removing a coating material containing any tributyltin compound or triphenyltin compound, if carried on at a shipyard or boatyard where vessels of a length of 25 metres or more can be built, maintained or repaired.
- (b) Pre-treating (by operations such as washing, bleaching or mercerization) or dyeing fibres or textiles in plant with a treatment capacity of more than 10 tonnes per day.
- (c) Treating textiles if the activity may result in the release into water of any substance in paragraph 7 of Part 1 of this Schedule in a quantity which, in any 12-month period, is greater than the background quantity by more than the amount specified in that paragraph in relation to that substance.

**Part A(2)**

- (a) Unless falling within Part A(1) of this Section, surface treating substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, in plant with a consumption capacity of more than 150 kg per hour or more than 200 tonnes per year.

**Part B**

- (a) Unless falling within Part A(1) or Part A(2) of this Section or Part A(2)(c) of Section 2.1, any process (other than for the re-painting or re-spraying of or of parts of aircraft or road or railway vehicles) for applying to a substrate, or drying or curing after such application, printing ink or paint or any other coating material as, or in the course of, a manufacturing activity, where the process may result in the release into the air of particulate matter or of any volatile organic compound and is likely to involve the use in any 12-month period of—
- (i) 20 or more tonnes of printing ink, paint or other coating material which is applied in solid form,
  - (ii) 20 or more tonnes of any metal coating which is sprayed on in molten form,
  - (iii) 25 or more tonnes of organic solvents in respect of any cold set web offset printing activity or any sheet fed offset litho printing activity, or
  - (iv) 5 or more tonnes of organic solvents in respect of any activity not mentioned in sub-paragraph (iii).
- (b) Unless falling within Part A(2) of this Section, re-painting or re-spraying road vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use of 1 or more tonne of organic solvents in any 12-month period.
- (c) Re-painting or re-spraying aircraft or railway vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use in any 12-month period of—
- (i) 20 or more tonnes of any paint or other coating material which is applied in solid form,
  - (ii) 20 or more tonnes of any metal coatings which are sprayed on in molten form, or
  - (iii) 5 or more tonnes of organic solvents.

Interpretation and application of Part B

1. In Part B—

“aircraft” includes gliders and missiles;

“coating material” means paint, printing ink, varnish, lacquer, dye, any metal oxide coating, any adhesive coating, any elastomer coating, any metal or plastic coating and any other coating material.

2. The amount of organic solvents used in an activity must be calculated as—

- (a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents used for cleaning or other purposes; less
- (b) any organic solvents that are removed from the process for re-use or for recovery for re-use.

3. When determining the extent of an installation carrying on an activity within Part B any location where the associated cleaning of used storage drums prior to painting or their incidental handling in connection with such cleaning is carried on is to be ignored, unless that location forms part of a SED installation.

SECTION 6.5

*The Manufacture of Dyestuffs, Printing Ink and Coating Materials*

**Part B**

- (a) Unless falling within Part A(1) or Part A(2) of any other Section—
- (i) manufacturing or formulating printing ink or any other coating material containing, or involving the use of, an organic solvent, where the carrying on of the activity is likely to involve the use of 100 or more tonnes of organic solvents in any 12-month period,
  - (ii) manufacturing any powder for use as a coating material where there is the capacity to produce 200 tonnes or more of such powder in any 12-month period.

Interpretation of Part B

1. In Part B, “coating material” has the same meaning as in Section 6.4.
2. The amount of organic solvents used in an activity must be calculated as—
  - (a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents for cleaning or other purposes; less
  - (b) any organic solvents, not contained in coating materials, that are removed from the process for re-use or for recovery for re-use.

SECTION 6.6

*Timber Activities*

**Part A(1)**

- (a) Curing, or chemically treating, as part of a manufacturing process, timber or products wholly or mainly made of wood if any substance in paragraph 7 of Part 1 of this Schedule is used.

**Part B**

- (a) Unless falling within Part A(2) of Section 6.1, manufacturing products wholly or mainly of wood at any works if the activity involves a relevant activity and the throughput of the works in any 12-month period is likely to be more than—
- (i) 10,000 cubic metres in the case of works at which wood is only sawed, or wood is sawed and subjected to excluded activities, or
  - (ii) 1,000 cubic metres in any other case.

Interpretation of Part B

1. In Part B—

“excluded activity” means any relevant activity (other than sawing) which, ignoring any sawing carried on at the works, would be unlikely to result in the release into the air of any substance in paragraph 6(3) of Part 1 of this Schedule in a quantity capable of causing significant harm;

“relevant activity” means the sawing, drilling, sanding, shaping, turning, planing, curing or chemical treatment of wood;

“throughput” means the amount of wood which is subjected to a relevant activity, but where wood is subject to 2 or more relevant activities at the same works, the second and any subsequent activity is to be ignored;

“wood” includes any product consisting wholly or mainly of wood; and

“works” includes a sawmill or any other premises where relevant activities are carried on.

SECTION 6.7

*Activities Involving Rubber*

**Part A(2)**

- (a) Manufacturing new tyres (but not remoulds or retreads) if this involves the use in any 12-month period of 50,000 or more tonnes of one or more of the following—
- (i) natural rubber,
  - (ii) synthetic organic elastomers,
  - (iii) other substances mixed with them.

**Part B**

- (a) Unless falling within Part A(1) or Part A(2) of any Section, the mixing, milling or blending of—
- (i) natural rubber, or
  - (ii) synthetic organic elastomers,
- if carbon black is used.
- (b) Any activity which converts the product of an activity falling within paragraph (a) into a finished product if related to an activity falling within that paragraph.

SECTION 6.8

*The Treatment of Animal and Vegetable Matter and Food Industries*

Interpretation of Section 6.8

1. In this Section—

“animal” includes a bird or a fish;

“excluded activity” means—

- (a) any activity carried on on a farm or agricultural holding other than—
  - (i) the manufacture of goods for sale,
  - (ii) the production of compost for growing mushrooms,
- (b) the manufacture or preparation of food or drink for human consumption but excluding—
  - (i) the extraction, distillation or purification of animal or vegetable oil or fat otherwise than as an activity incidental to the cooking of food for human consumption,
  - (ii) any activity involving the use of green offal or the boiling of blood except the cooking of food (other than tripe) for human consumption,
  - (iii) the cooking of tripe for human consumption elsewhere than on premises on which it is to be consumed,
- (c) the fleshing, cleaning and drying of pelts of fur-bearing mammals,
- (d) any activity carried on in connection with the operation of a collection centre for animal by-products,
- (e) any activity for the manufacture of soap not falling within Part A(1) of Section 4.1,
- (f) the storage of vegetable matter not falling within any other Section,
- (g) the cleaning of shellfish shells,
- (h) the manufacture of starch,
- (i) the processing of animal or vegetable matter at premises authorised for the feeding of a recognised pack of hounds under the Animal By-Products Regulations,
- (j) the salting of hides or skins, unless related to any other activity listed in this Schedule,

- (k) any activity for composting animal or vegetable matter or a combination of both, except where that activity is carried on for the purposes of cultivating mushrooms,
- (l) any activity for cleaning, and any related activity for drying or dressing, seeds, bulbs, corms or tubers (and “related activity” means an activity being carried on by the same person at the same site),
- (m) the drying of grain or pulses,
- (n) any activity for the production of cotton yarn from raw cotton or for the conversion of cotton yarn into cloth;

“food” includes—

- (a) drink,
- (b) articles and substances of no nutritional value which are used for human consumption, and
- (c) articles and substances used as ingredients in the preparation of food;

“green offal” means the stomach and intestines of any animal, other than poultry or fish, and their contents.

#### **Part A(1)**

- (a) Tanning hides and skins at a plant with a treatment capacity of more than 12 tonnes of finished products per day.
- (b) Slaughtering animals at a plant with a carcass production capacity of more than 50 tonnes per day.
- (c) Disposing of or recycling animal carcasses or animal waste, other than by rendering or by incineration falling within Section 5.1, at a plant with a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or both in aggregate.
- (d) Treating and processing materials intended for the production of food products from—
  - (i) animal raw materials (other than milk) at a plant with a finished product production capacity of more than 75 tonnes per day; or
  - (ii) vegetable raw materials at a plant with a finished product production capacity of more than 300 tonnes per day (average value on a quarterly basis).
- (e) Treating and processing milk, the quantity of milk received being more than 200 tonnes per day (average value on an annual basis).
- (f) Processing, storing or drying by the application of heat the whole or part of any dead animal or any vegetable matter (other than the treatment of effluent so as to permit its discharge into controlled waters or into a sewer unless the treatment involves the drying of any material with a view to its use as animal feedstuff) if the processing, storing or drying—
  - (i) does not fall within any other Section, or Part A(2) of this Section, and is not an excluded activity; and
  - (ii) may result in the release into water of any substance in paragraph 7 of Part 1 of this Schedule in a quantity which, in any 12-month period, is greater than the background quantity by more than the amount specified in relation to the substance in that paragraph.

#### **Part A(2)**

- (a) Disposing of or recycling animal carcasses or animal waste by rendering at plant with a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or both in aggregate.

**Part B**

- (a) Processing, storing or drying by the application of heat the whole or part of any dead animal or any vegetable matter (other than the treatment of effluent so as to permit its discharge into controlled waters or into a sewer unless the treatment involves the drying of any material with a view to its use as animal feedstuff) if the processing, storing or drying—
- (i) does not fall within another Section, or Part A(1) or Part A(2) of this Section;
  - (ii) is not an excluded activity; and
  - (iii) may result in the release into the air of—
    - (a) any substance in paragraph 6(3) of Part 1 of this Schedule, or
    - (b) any offensive smell noticeable outside the premises on which the activity is carried on.
- (b) Breeding maggots in any case where 5 or more kg of animal matter, vegetable matter or both in aggregate, are introduced into the process in any week.

## SECTION 6.9

*Intensive Farming***Part A(1)**

- (a) Rearing poultry or pigs intensively in an installation with more than—
- (i) 40,000 places for poultry;
  - (ii) 2,000 places for production pigs (over 30 kg); or
  - (iii) 750 places for sows.

## SECTION 7

*SED Activities***Part B**

- (a) The activities listed in the table below if they are operated above the solvent consumption threshold for the activity.

<i>Activity</i>	<i>Solvent consumption threshold in tonnes/year</i>
Heatset web offset printing	15
Publication rotogravure	25
Other rotogravure, flexography, rotary screen printing, laminating or varnishing units	15
Rotary screen printing on textile or cardboard	30
Surface cleaning using substances or preparations which because of their content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Directive <a href="#">67/548/EEC</a> on the approximation of laws, regulations and administrative provisions	1

<i>Activity</i>	<i>Solvent consumption threshold in tonnes/ year</i>
relating to the classification, packaging and labelling of dangerous substances <sup>(54)</sup> are assigned or need to carry one or more of the risk phrases R45, R46, R49, R60 or R61, or halogenated VOCs which are assigned or need to carry the risk phrase R40	
Other surface cleaning	2
Vehicle coating and vehicle refinishing	0.5
Coil coating	25
Other coating activities, including metal, plastic, textile (except rotary screen printing on textile), fabric, film and paper coating	5
Winding wire coating	5
Coating activity applied to wooden surfaces	15
Dry cleaning	0
Wood impregnation	25
Coating activity applied to leather	10
Footwear manufacture	5
Wood and plastic lamination	5
Adhesive coating	5
Manufacture of coating preparations, varnishes, inks and adhesives	100
Rubber conversion	15
Vegetable oil and animal fat extraction and vegetable oil refining activities	10
Manufacturing of pharmaceutical products	50

#### Interpretation and application of Part B

##### 1. For the purposes of Part B—

“adhesive” means any preparation, including all the organic solvents or preparations containing organic solvents necessary for its proper application, which is used to adhere separate parts of a product;

“adhesive coating” means any activity in which an adhesive is applied to a surface, excluding the application of adhesive and laminating associated with printing activities;

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(54) OJ No 196, 16.8.1967, p 1 (OJ/SE Series I Chapter 1967 P, p 19), as last amended by Directive 2006/121/EC (OJ No L 396, 30.12.2006, p 850).

(54) OJ No 196, 16.8.1967, p 1 (OJ/SE Series I Chapter 1967 P, p 19), as last amended by Directive 2006/121/EC (OJ No L 396, 30.12.2006, p 850).

“coating” means any preparation, including all the organic solvents or preparations containing organic solvents necessary for its proper application, which is used to provide a decorative, protective or other functional effect on a surface;

“coating activity” means any activity in which a single or a multiple application of a continuous film of a coating is applied (including a step in which the same article is printed using any technique) but does not include the coating of substrate with metals by electrophoretic or chemical spraying techniques;

“coil coating” means any activity where coiled steel, stainless steel, coated steel copper alloys or aluminium strip is coated with either a film forming or laminate coating in a continuous process;

“consumption” means the total input of organic solvents into an installation per calendar year, or any other 12-month period, less any volatile organic compounds that are recovered for reuse;

“dry cleaning” means any industrial or commercial activity using volatile organic compounds to clean garments, furnishing and similar consumer goods excluding the manual removal of stains and spots in the textile and clothing industry;

“flexography” means a printing activity using an image carrier of rubber or elastic photopolymers on which the printing areas are above the non-printing areas, and liquid inks which dry through evaporation;

“footwear manufacture” means any activity of producing complete footwear or parts of footwear;

“heat web offset printing” means a web-fed printing activity using an image carrier in which the printing and non-printing area are in the same plane, where—

- (a) the non-printing area is treated to attract water and reject ink,
- (b) the printing area is treated to receive and transmit ink to the surface to be printed, and
- (c) evaporation takes place in the oven where hot air is used to heat the printed material;

“ink” means a preparation, including all the organic solvents or preparations containing organic solvents necessary for its proper application which is used in a printing activity to impress text or images on to a surface;

“laminating associated to a printing activity” means the adhering together of 2 or more flexible materials to produce laminates;

“manufacturing of coating preparations, varnishes, inks and adhesives” means the manufacture of coating preparations, varnishes, inks and adhesives as final products and where carried on at the same site, the manufacture of intermediates by the mixing of pigments, resins and adhesive materials with organic solvent or other carrier, including—

- (a) dispersion and pre-dispersion activities,
- (b) viscosity and tint adjustments, and
- (c) operations for filling the final product into its container;

“manufacturing of pharmaceutical products” means an activity that involves the—

- (a) chemical synthesis,
- (b) fermentation,
- (c) extraction, or
- (d) formulation and finishing,

of pharmaceutical products and, where carried on at the same site, the manufacture of intermediate products;

“the Motor Vehicle Directive” means Council Directive [70/156/EEC](#) on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers<sup>(55)</sup>;

“organic compound” means any compound containing at least the element carbon and one or more of hydrogen, halogens, oxygen, sulphur, phosphorus, silicon or nitrogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates;

“organic solvents” means any volatile organic compound which is used alone or in combination with other agents, and without undergoing a chemical change to dissolve raw materials, products or waste materials, as a—

- (a) cleaning agent to dissolve contaminants,
- (b) dissolver,
- (c) dispersion medium,
- (d) viscosity adjuster,
- (e) surface tension adjuster,
- (f) plasticiser, or
- (g) preservative;

“other coating activities” means a coating activity applied to—

- (a) trailers, defined in categories O1, O2, O3, and O4 in the Motor Vehicle Directive,
- (b) metallic and plastic surfaces including surfaces of airplanes, ships, trains, or
- (c) textile, fabric, film and paper surfaces;

“printing activity” means any activity (not being a step in a coating activity) for reproducing text and/or images in which, with the use of an image carrier, ink is transferred onto any type of surface, including the use of associated varnishing, coating and laminating techniques;

“publication rotogravure” means a rotogravure printing activity used for printing paper for magazines, brochures, catalogues or similar products, using toluene-based inks;

“reuse” means the use of organic solvents recovered from an installation for any technical or commercial purpose and including use as a fuel but excluding the final disposal of such recovered organic solvent as waste;

“rotary screen printing” means a web-fed printing activity in which liquid ink which dries only through evaporation is passed onto the surface to be printed by forcing it through a porous image carrier, in which the printing area is open and the non-printing area is sealed off;

“rotogravure” means a printing activity, using a cylindrical image carrier in which the printing area is below the non-printing area and liquid inks which dry through evaporation, and in which the recesses are filled with ink and the surplus is cleaned off the non-printing area before the surface to be printed contacts the cylinder and lifts the ink from the recesses;

“rubber conversion” means—

- (a) any activity of mixing, milling, blending, calendering, extrusion or vulcanisation of natural or synthetic rubber, or
- (b) any ancillary operations for converting natural or synthetic rubber into a finished product;

“surface cleaning” means any activity, except dry cleaning, using organic solvents to remove contamination from the surface of material including degreasing but excluding the cleaning of equipment; and a cleaning activity consisting of more than one step before or after any other activity is to be considered as one surface cleaning activity;

<sup>(55)</sup> OJ No L42, 23.2.1970, p 1 (OJ/SE Series I Chapter 1970(I) P, p 82, as last amended by Directive [2006/40/EC](#) (OJ No L 161, 14.6.2006, p 12).

“varnish” means a transparent coating;

“varnishing” means an activity by which varnish or an adhesive coating for the purpose of sealing the packaging material is applied to a flexible material;

“vegetable oil and animal fat extraction and vegetable oil refining activities” means any activity to extract vegetable oil from seeds and other vegetable matter, the processing of dry residues to produce animal feed, the purification of fats and vegetable oils derived from seeds, vegetable matter or animal matter;

“vehicle coating” means a coating activity applied to the following vehicles—

- (a) new cars, defined as vehicles of category M1 in the Motor Vehicle Directive, and of category N1 in so far as they are coated at the same installation as M1 vehicles,
- (b) truck cabins, defined as the housing for the driver, and all integrated housing for the technical equipment, of vehicles of category N2 or N3 in the Motor Vehicle Directive,
- (c) vans and trucks, defined as vehicles of category N1, N2 or N3 in the Motor Vehicle Directive, but not including truck cabins, or
- (d) buses, defined as vehicles in category M2 or M3 in the Motor Vehicle Directive;

“vehicle refinishing” means any industrial or commercial coating activity and associated degreasing activities performing—

- (a) the original coating of road vehicles as defined in the Motor Vehicle Directive or part of them with refinishing-type materials, where this is carried on away from the original manufacturing line, or
- (b) the coating of trailers (including semi-trailers) (category O in the Motor Vehicle Directive);

“volatile organic compound” or “VOC” means—

- (a) any organic compound having a vapour pressure of 0.01 or more kPa at 293.15K or having a corresponding volatility under the particular conditions of use, or
- (b) the fraction of creosote which exceeds a vapour pressure of 0.01 kPa at 293.15K;

“web-fed” means that the material to be printed is fed to the machine from a reel as distinct from separate sheets;

“winding wire coating” means any coating activity of metallic conductors used for winding the coils in transformers and motors, etc;

“wood and plastic lamination” means any activity to adhere together wood or plastic to produce laminated products;

“wood impregnation” means any activity giving a loading of preservative in timber.

**2.** An activity is deemed to be operated above the solvent consumption threshold specified for that activity under Part B if the activity is likely to be operated above that threshold in any 12-month period.

**3.** An activity listed in Part B includes the cleaning of equipment but, except for a surface cleaning activity, not the cleaning of products.

## SCHEDULE 2

Regulation 4

### Exempt facilities: general

#### **Interpretation: general**

1.—(1) In this Schedule—

“applicable fee” means—

- (a) a fee imposed by the Agency under paragraph 11 until such date as it is superseded by a charging scheme referred to in that paragraph, or
- (b) on and after that date, the fee prescribed under such a scheme;

“date of registration” means the date on which the relevant particulars first appear on the register;

“occupier” means a person who is or has been the occupier of the land on which an exempt water discharge activity or exempt groundwater activity is carried on;

“operator” means the person carrying on a water discharge activity or groundwater activity;

“register” means the register which the exemption registration authority is required to establish and maintain under paragraph 7(1);

“registered” means—

- (a) in relation to a waste operation, that the relevant particulars appear on the register during a valid registration period,
- (b) in relation to a water discharge activity or groundwater activity, that the relevant particulars appear on the register,

and “registration” is to be construed accordingly;

“relevant particulars” has the meaning given in paragraph 6(3);

“valid registration period”, for an exempt waste operation, means the period of validity of a registration referred to in paragraph 12(1), as read with paragraph 12(2); and

“WEEE operation” means a waste operation falling within a description in paragraph T11.

#### **Interpretation: exemption registration authority**

2.—(1) Subject to sub-paragraphs (2) and (3), the exemption registration authority in relation to a waste operation falling within a description in Part 1 of Schedule 3 is the Agency.

(2) The exemption registration authority in relation to a waste operation falling within a description in paragraph T3 or T7 is—

- (a) for a waste operation carried on by waste mobile plant by an establishment or undertaking whose principal place of business is in England and Wales, the local authority in whose area it has its principal place of business;
- (b) for a waste operation carried on by waste mobile plant by an establishment or undertaking whose principal place of business is not in England and Wales, the local authority in whose area the operation is first carried on;
- (c) for a waste operation not carried on by waste mobile plant, the local authority in whose area the operation is carried on.

(3) The exemption registration authority in relation to a waste operation falling within a description in paragraph T22 is the authority responsible for granting an authorisation under regulation 27 of the Animal By-Products Regulations.

(4) The exemption registration authority in relation to a water discharge activity falling within a description in Part 2 of Schedule 3 is the Agency.

(5) The exemption registration authority in relation to a groundwater activity falling within a description in Part 3 of Schedule 3 is the Agency.

### **Exempt waste operations**

3.—(1) For the purpose of the definition of “exempt waste operation”, the requirements are—

- (a) that a waste operation—
  - (i) falls within a description in Part 1 of Schedule 3, and
  - (ii) satisfies the general and specific conditions specified in Part 1 of that Schedule in relation to the description;
- (b) subject to sub-paragraph (2) and paragraph 9(10) of this Schedule—
  - (i) that the waste operation is registered, and
  - (ii) an establishment or undertaking is registered in relation to it; and
- (c) that the type and quantity of waste submitted to the waste operation, and the method of disposal or recovery, are consistent with the need to attain the objectives mentioned in Article 4(1) of the Waste Framework Directive.

(2) The registration requirements in sub-paragraph (1)(b) do not apply in respect of a waste operation carried on by a person who is not an establishment or undertaking.

### **Exempt water discharge activities**

4. For the purpose of the definition of “exempt water discharge activity”, the requirements are—

- (a) that a water discharge activity—
  - (i) falls within a description in Part 2 of Schedule 3, and
  - (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in Part 2 of that Schedule;
- (b) that the water discharge activity is registered and, subject to paragraph 9(10) of this Schedule, for a water discharge activity that falls within a description in—
  - (i) paragraph 1 of Part 2 of Schedule 3, the operator is registered in relation to the activity, or
  - (ii) paragraph 2 of Part 2 of that Schedule, the occupier is registered in relation to the activity; and
- (c) that the water discharge activity does not cause pollution of inland freshwaters, coastal waters or relevant territorial waters.

### **Exempt groundwater activities**

5. For the purpose of the definition of “exempt groundwater activity”, the requirements are—

- (a) that a groundwater activity—
  - (i) falls within a description in Part 3 of Schedule 3;
  - (ii) satisfies, in relation to an activity of that description, the relevant conditions specified in Part 3 of that Schedule;
- (b) that the groundwater activity is registered and, subject to paragraph 9(10) of this Schedule, for a groundwater activity that falls within a description in—

- (i) paragraph 2 of Part 3 of Schedule 3, the operator is registered in relation to the activity, or
  - (ii) paragraph 3 of Part 3 of that Schedule, the occupier is registered in relation to the activity; and
- (c) that the groundwater activity does not cause pollution of groundwater.

### **Procedure for registering an exempt facility**

6.—(1) An establishment or undertaking seeking to be registered in relation to a waste operation described in Part 1 of Schedule 3, or seeking to renew such a registration, must notify the exemption registration authority of—

- (a) the relevant particulars; and
- (b) the information specified in sub-paragraph (4).

(2) An occupier or operator seeking to be registered in relation to a water discharge activity described in Part 2 of Schedule 3 or a groundwater activity described in Part 3 of that Schedule must notify the exemption registration authority of the relevant particulars.

(3) The relevant particulars are—

- (a) the name and address of—
  - (i) for a waste operation, the establishment or undertaking, or
  - (ii) for a water discharge activity or groundwater activity, the occupier or operator;
- (b) a description of the waste operation, water discharge activity or groundwater activity;
- (c) the place where the waste operation, water discharge activity or groundwater activity is carried on, including—
  - (i) the post code (if applicable), or
  - (ii) the Ordnance Survey National Grid reference point; and
- (d) if the waste operation is a WEEE operation, the type and quantity of waste subject to the operation.

(4) The information in this sub-paragraph is the name and contact details of an individual officer or employee designated by the establishment or undertaking to be the primary contact for the purposes of registration.

(5) Notification under sub-paragraph (1) or (2) must be in the form specified by the exemption registration authority.

(6) If a notification under sub-paragraph (1) relates to a waste operation that is a WEEE operation, the notification must be accompanied by the applicable fee.

### **Register of exempt facilities**

7.—(1) Every exemption registration authority must establish and maintain a register of exempt facilities in relation to which it is the exemption registration authority.

(2) Subject to sub-paragraphs (3), (4) and (5), the exemption registration authority must ensure the register contains the relevant particulars—

- (a) for an exempt waste operation, within 5 working days after the date that it receives—
  - (i) notification of the relevant particulars and the information specified in paragraph 6(4), and
  - (ii) for a WEEE operation, payment of the applicable fee in accordance with paragraph 6(6); and

- (b) for an exempt water discharge activity or exempt groundwater activity, within 15 working days after the date that it receives notification of the relevant particulars.
- (3) The exemption registration authority must ensure the register is updated to reflect any changes notified under paragraph 13(1) of this Schedule or under Part 2 or 3 of Schedule 3—
  - (a) for exempt waste operations, within 5 working days after the date that it receives the notification, or
  - (b) for exempt water discharge activities and exempt groundwater activities, within 15 working days after that date.
- (4) The exemption registration authority must not enter the relevant particulars on the register in relation to a WEEE operation until it has carried out an inspection in relation to the operation that complies with the second and third paragraphs of Article 6(2) of the WEEE Directive.
- (5) Every exemption registration authority must—
  - (a) ensure that its register is open to inspection by the public free of charge at all reasonable hours; and
  - (b) provide reasonable facilities to the public for obtaining a copy of an entry on payment of a reasonable charge.
- (6) A register may be kept in any form.

#### **Duty to remove entries from the register**

- 8.—(1) The duty to maintain a register in paragraph 7(1) includes a duty to remove an entry from the register if—
- (a) the exemption registration authority becomes aware that the exempt facility is no longer in operation at the place stated in the relevant particulars;
  - (b) the facility ceases to be an exempt facility; or
  - (c) in the case of a WEEE operation, the exemption registration authority—
    - (i) has carried out an inspection in accordance with paragraph 15(2), and
    - (ii) is not satisfied as to the particulars to be verified pursuant to the third paragraph of Article 6(2) of the WEEE Directive.
- (2) If the exemption registration authority removes an entry from the register under sub-paragraph (1), it must notify without delay the occupier, operator or other person registered in relation to the exempt facility.
- (3) Sub-paragraph (2) does not apply if the exemption registration authority was notified by the person registered in relation to the facility that the facility is no longer in operation at the place stated in the relevant particulars.

#### **Exclusion from the register of information affecting national security**

- 9.—(1) The appropriate authority may direct the exemption registration authority that, in the interests of national security, specified information or information of a specified description must be excluded from the register.
- (2) The exemption registration authority must notify the appropriate authority of any information it excludes from the register pursuant to such a direction.
- (3) The appropriate authority may direct the exemption registration authority that, in the interests of national security, before information of a specified description is included on the register, the information must be referred to the appropriate authority for determination as to whether or not it should be excluded from the register.

(4) A determination by the appropriate authority under sub-paragraph (3) to exclude information from the register must be given effect by a direction under sub-paragraph (1).

(5) A person may give a notice to the appropriate authority stating that, in the person's opinion, the inclusion of information on the register would be contrary to the interests of national security.

(6) A notice under sub-paragraph (5) must specify the information and indicate its apparent nature.

(7) A person giving a notice under sub-paragraph (5) must at the same time notify the exemption registration authority.

(8) The exemption registration authority must not include information notified under sub-paragraph (5) on the register unless the appropriate authority determines that it may be included.

(9) A determination by the appropriate authority to exclude information notified under sub-paragraph (5) from the register must be given effect by a direction under sub-paragraph (1).

(10) In relation to an exempt facility that is the subject of a direction or notice given under this paragraph, the requirement in paragraph 3(1)(b), 4(b) or 5(b)—

(a) does not apply where a direction or notice requires the exclusion of all relevant particulars from the register; and

(b) is satisfied where—

(i) a direction under sub-paragraph (1) requires the exclusion of some, but not all, relevant particulars from the register,

(ii) a direction under sub-paragraph (3) requires the exclusion of relevant particulars from the register, or

(iii) a notice under sub-paragraph (5) which is pending a determination under sub-paragraph (8) requires the exclusion of relevant particulars from the register,

and where any relevant particulars which are not subject to a direction or notice are included on the register.

### **Restrictions on registering exempt waste operations carried on at the same place**

**10.—**(1) An establishment or undertaking may not be registered more than once during a valid registration period in relation to any one waste operation described in Part 1 of Schedule 3 that is carried on or is to be carried on at the same place.

(2) If an establishment or undertaking is registered more than once in contravention of sub-paragraph (1), the second and any subsequent registration is invalid.

(3) Subject to sub-paragraph (7), not more than one establishment or undertaking may be registered at the same time in relation to the same waste operation described in Part 1 of Schedule 3 if the operation is carried on or is to be carried on at the same place.

(4) If more than one establishment or undertaking is registered in contravention of sub-paragraph (3), only the registration specified in sub-paragraph (5) is valid.

(5) The registration in this sub-paragraph is the registration of the establishment or undertaking in respect of which the relevant particulars first appeared on the register in the relevant period.

(6) In this paragraph, "relevant period" means the period during which the relevant particulars appear on the register.

(7) Sub-paragraph (3) does not apply in relation to a waste operation falling within a description in paragraph D2.

### **Fee for registration relating to WEEE operations**

**11.**—(1) Notwithstanding the power to make a charging scheme under section 41 of the 1995 Act, the Agency may impose a fee in accordance with sub-paragraph (2) until—

- (a) the fee is superseded by such a charging scheme; or
- (b) 1st April 2013,

whichever is the earlier.

(2) The fee referred to in sub-paragraph (1) is £840 in respect of the registration of an establishment or undertaking in relation to a WEEE operation.

### **Validity of registration of waste operations**

**12.**—(1) A first registration or a registration in relation to a WEEE operation is valid for 3 years.

(2) Any other registration in relation to a waste operation is valid until the end of validity of the first registration.

(3) For the purposes of sub-paragraphs (1) and (2), the period of validity of a registration commences on the date of registration or on the most recent renewal date, as the case may be.

(4) An establishment or undertaking may renew a registration at any time in the month prior to the registration becoming invalid (and the registration procedure specified in paragraph 6 applies in relation to any such renewal).

(5) Where an establishment or undertaking has renewed a registration, the renewal takes effect on the day after the day on which the previous registration becomes invalid.

(6) In this paragraph—

“first registration” means—

- (a) the first appearance on the register of relevant particulars for an establishment or undertaking in relation to a waste operation other than a WEEE operation, or
- (b) in the case of a renewal, the first such appearance following the end of validity of the registration, other than the end of validity of the registration of a WEEE operation;

“renewal date” means the date that the renewal of a registration takes effect.

### **Changes to relevant particulars relating to waste operations**

**13.**—(1) An establishment or undertaking registered in relation to a waste operation must notify the exemption registration authority without delay of any changes to—

- (a) any of the relevant particulars; and
- (b) any of the information specified in paragraph 6(4).

(2) If an establishment or undertaking does not comply with sub-paragraph (1)(a), the exemption registration authority may remove from the register the entry made in respect of the establishment or undertaking.

(3) Notification under sub-paragraph (1) must be in the form specified by the exemption registration authority.

(4) The exemption registration authority must notify the establishment or undertaking in question without delay if it removes an entry from the register pursuant to sub-paragraph (2).

### **Record keeping for exempt waste operations**

**14.**—(1) This paragraph applies to every exempt waste operation where the waste operation—

- (a) is a WEEE operation; or
  - (b) falls within a description in—
    - (i) subject to sub-paragraph (2), paragraph U10 or U11,
    - (ii) paragraph T9,
    - (iii) paragraph T3 or T7 where the operation is carried on by waste mobile plant.
- (2) But it does not apply in relation to an exempt waste operation where—
- (a) the waste operation falls within a description in paragraph U10 or U11; and
  - (b) the establishment or undertaking is required to keep records in relation to the operation and the waste that is subject to that operation under the Nitrate Pollution Prevention Regulations 2008<sup>(56)</sup> or the Nitrate Pollution Prevention (Wales) Regulations 2008<sup>(57)</sup>.
- (3) An establishment or undertaking which carries on an exempt waste operation to which this paragraph applies must—
- (a) keep records of the quantity, nature, origin and, where relevant, the destination and treatment method of all waste disposed of or recovered in the course of that operation; and
  - (b) where the waste operation falls within a description in paragraph T3 or T7 and is carried on by waste mobile plant, keep records of the places where the operation is carried on.
- (4) An establishment or undertaking which carries on an exempt waste operation to which this paragraph applies must—
- (a) retain any records that it is required to keep under sub-paragraph (3) for a period of 2 years; and
  - (b) during that period make those records available to the exemption registration authority on request.

### **Periodic inspections of establishments and undertakings**

**15.**—(1) Every exemption registration authority must carry out appropriate periodic inspections of establishments and undertakings carrying on exempt waste operations in respect of which it is the exemption registration authority.

(2) If an exempt waste operation involves a WEEE operation, the exemption registration authority must discharge the duty in sub-paragraph (1) by carrying out an inspection that complies with the third and fourth paragraphs of Article 6(2) of the WEEE Directive.

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<sup>(56)</sup> S.I. 2008/2349.

<sup>(57)</sup> S.I. 2008/3143 (W.278).

## SCHEDULE 3

Schedule 2, paragraph 3(1)(a)

## Exempt facilities: descriptions and conditions

## PART 1

## Exempt waste operations: descriptions and conditions (specific and general)

## CHAPTER 1

## Interpretation of Part 1

**Interpretation****1.—(1)** In this Part—

“agricultural land” has the meaning given in section 109(1) of the Agriculture Act 1947<sup>(58)</sup> and, for the purposes of the descriptions in paragraphs U10 and U11, this includes land used for the production of timber or other non-food crops;

“anaerobic digestion” means the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable waste which—

- (a) is carried on under controlled anaerobic conditions, and
- (b) results in stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land;

“associated storage” means storage of waste that—

- (a) is associated with the use, treatment or disposal of waste, and
- (b) takes place at the place where the use, treatment or disposal is carried on;

“bank” means a bank, wall or embankment adjoining or confining, or constructed for the purposes of or in connection with, any channel and includes all land between the bank and low-watermark;

“construction” means the carrying on of building or engineering work which includes the repair, alteration, maintenance or improvement of an existing work and preparatory or landscaping works;

“impermeable surface” means a surface or pavement constructed and maintained to a standard sufficient to prevent the transmission of liquids beyond the surface;

“inland waters” has the meaning given in section 221(1) of the 1991 Act;

“place of production” means, in relation to any waste, the place where the waste was originally produced;

“Plant Health notice” means a notice served under—

- (a) article 12 of the Plant Health (Phytophthora ramorum) (England) Order 2004<sup>(59)</sup>,
- (b) article 13 of the Plant Health (Phytophthora ramorum) (Wales) Order 2006<sup>(60)</sup>,
- (c) article 31 of the Plant Health (Forestry) Order 2005<sup>(61)</sup>,
- (d) article 32 of the Plant Health (England) Order 2005 <sup>(62)</sup>,

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<sup>(58)</sup> 1947 c. 48.

<sup>(59)</sup> S.I. 2004/2590 to which there are amendments not relevant to these Regulations.

<sup>(60)</sup> S.I. 2006/1344 (W.134) to which there are amendments not relevant to these Regulations.

<sup>(61)</sup> S.I. 2005/2517, amended by S.I. 2006/2696, S.I. 2008/644, S.I. 2009/594.

<sup>(62)</sup> S.I. 2005/2530 to which there are amendments not relevant to these Regulations.

- (e) article 32 of the Plant Health (Wales) Order 2006 **(63)**;
- “relevant waste”, where it appears in any paragraph in this Part, means waste that—
- (a) falls within a code specified in the first column of the table in the paragraph, and
- (b) is of a type specified in the second column of the table;
- “scrap metal” has the meaning given in section 9(2) of the Scrap Metal Dealers Act 1964**(64)**;
- “sealed drainage” means a drainage system with an impermeable surface which ensures that—
- (a) no liquid will run off the surface otherwise than via the system, and
- (b) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump;
- “secondary containment” means a bund or any other system for preventing waste which has leaked from the primary container from escaping from the place where it is stored or treated.
- (2) In this Part, a 6 digit code used to refer to a waste is a reference to the waste specified by the 6 digit code**(65)**—
- (a) in England, in the List of Wastes (England) Regulations 2005**(66)**;
- (b) in Wales, in the List of Wastes (Wales) Regulations 2005**(67)**,
- except insofar as the waste specified in this Part in relation to such a code does not include some of the types of waste specified by that code in those Regulations.
- (3) Where a bund is used as secondary containment—
- (a) the bund must have an impermeable lining and—
- (i) have a capacity of not less than 110% of the original container’s storage capacity, or
- (ii) if there is more than one container within the containment system, have a capacity of not less than 110% of the largest container’s storage capacity or 25% of their aggregate storage capacity, whichever is the greater, and
- (b) reasonable precautions must be taken to ensure that the capacities specified in paragraph (a) are maintained at all times.
- (4) When interpreting this Part, a container, lagoon or other place is secure in relation to waste kept in it if—
- (a) all reasonable precautions are taken to ensure that the waste cannot escape from it; and
- (b) members of the public are unable to gain access to the waste.
- (5) Where a quantity limit is specified in relation to more than one operation (storage, use or treatment) in any one specific or additional condition, that quantity limit applies to all of those operations on an aggregate basis.
- (6) Where a waste operation is carried on by waste mobile plant, the quantity limits specified in any specific or additional specific condition in any Chapter of this Part apply in relation to each place where the operation is carried on.
- (7) The quantity limits specified in any specific condition in paragraphs U1, U2, U10, U11, U12 and U15 that relate to the use or storage of waste over a specified period apply for that period

**(63)** [S.I. 2006/1643 \(W.158\)](#) to which there are amendments not relevant to these Regulations

**(64)** [1964 c. 69](#).

**(65)** An asterisk following any such code indicates that the waste is considered as a hazardous waste for the purposes of regulation 6(a) of the Hazardous Waste (England and Wales) Regulations 2005 ([S.I. 2005/894](#)) (see regulation 3(6) of the List of Waste (England) Regulations 2005 and the List of Waste (Wales) Regulations 2005). See also regulation 3(7) of those Regulations for the effect of the asterisk where the waste comprises or contains one or more dangerous substances.

**(66)** [S.I. 2005/895](#), amended by [S.I. 2005/1673](#).

**(67)** [S.I. 2005/1820 \(W.148\)](#).

regardless of whether more than one establishment or undertaking carries on the operation at the same place over that period.

(8) In this Part—

- (a) a reference to any of paragraphs U1 to U16 is a reference to a paragraph numbered 1 to 16 in Section 2 of Chapter 2 (use of waste);
- (b) a reference to any of paragraphs T1 to T33 is a reference to a paragraph numbered 1 to 33 in Section 2 of Chapter 3 (treatment of waste);
- (c) a reference to any of paragraphs D1 to D8 is a reference to a paragraph numbered 1 to 8 in Section 2 of Chapter 4 (disposal of waste);
- (d) a reference to any of paragraphs S1 to S3 is a reference to a paragraph numbered 1 to 3 in Section 2 of Chapter 5 (storage of waste).

## CHAPTER 2

### Use of waste

#### SECTION 1

##### *Introductory*

1. The descriptions in this Chapter—
  - (a) are set out in the first sub-paragraph of paragraphs U1 to U16; and
  - (b) include associated storage.
2. The specific conditions for each description in this Chapter are set out in the third sub-paragraph of paragraphs U1 to U16.
3. The general conditions for all descriptions in this Chapter are as follows—
  - (a) the operation is for the purposes of recovering or reusing the waste, unless otherwise stated in the specific conditions;
  - (b) the waste used is suitable for the purposes of the operation;
  - (c) no more waste is used than is necessary to carry on the operation.

#### SECTION 2

##### *Descriptions and specific conditions*

#### **Use of waste in construction (U1)**

- 1.—(1) The use of relevant waste in construction.
- (2) The tables specifying relevant waste for the purposes of this paragraph are set out below.

**Table 1**

<i>Codes</i>	<i>Waste types</i>	<i>Quantity limit</i>	<i>Additional specific conditions</i>
010102	Waste from mineral non-metalliferous excavation	5,000 tonnes	
010408	Waste gravel and crushed rock other than those mentioned in 010407		
010409	Waste sand and clays		

020202	Shellfish shells from which the soft tissue or flesh has been removed only	
101208	Waste ceramics, bricks, tiles and construction products (after thermal processing)	
101314	Waste concrete and concrete sludge	
170101	Concrete	
170102	Bricks	
170103	Tiles and ceramics	
170107	Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 170106	
170506	Dredging spoil other than those mentioned in 170505	A
170508	Track ballast other than those mentioned in 170507	
191205	Glass	
191209	Minerals (for example sand, stones)	
191212	Aggregates only	

Table 2

<i>Codes</i>	<i>Waste types</i>	<i>Quantity limit</i>	<i>Additional specific conditions</i>
020399, 020401	Soil from cleaning and washing fruit and vegetables only	1,000 tonnes	
170302	Bituminous mixtures other than those mentioned in 170301		B
170504	Soil and stones other than those mentioned in 170503		
170506	Dredging spoil other than those mentioned in 170505		
191302	Solid wastes from soil remediation other than those mentioned in 191301		
200202	Soil and stones		
020103	Plant tissue waste		B
030101	Waste bark, cork and wood only		B
191207	Untreated wood other than those mentioned in 191206 only		B
200138	Untreated wood other than those mentioned in 200137 only		B

Table 3

<i>Codes</i>	<i>Waste types</i>	<i>Quantity limits</i>	<i>Additional specific conditions</i>
170302	Bituminous mixtures other than those mentioned in 170301	50,000 tonnes	C
170504	Road sub base only		C

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) where the relevant waste falls within the first column of a table in sub-paragraph (2), the total quantity of waste used or stored over any 3-year period does not exceed the limit indicated in the third column of that table;
  - (b) where one or more waste type falling within the first column of any one table in sub-paragraph (2) is used or stored, the total quantity for all the waste types used or stored does not exceed the limit indicated in the third column of that table over any 3-year period;
  - (c) no waste is stored for longer than 12 months prior to use; and
  - (d) the operation complies with such of the following additional conditions as are specified in the fourth column of the table and for these purposes—

- |   |                                                                                                                                                    |
|---|----------------------------------------------------------------------------------------------------------------------------------------------------|
| A | the waste is used only for drainage work carried on for the purposes of the Land Drainage Act 1991 <sup>(68)</sup> , the 1991 Act or the 1995 Act, |
| B | the waste is used only for the construction of tracks, paths, bridleways or car parks and must be processed into chipped form prior to use,        |
| C | the waste is used only for the construction of roads.                                                                                              |

#### **Use of baled end-of-life tyres in construction (U2)**

- 2.—(1) The use of relevant waste in construction.
- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
160103	Baled end-of-life tyres only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste used or stored during the construction does not exceed 50 tonnes of baled tyres;
  - (b) the waste is not used more than once;
  - (c) the bales comply with standard PAS108<sup>(69)</sup>; and
  - (d) no waste is stored for longer than 3 months prior to use.

#### **Use of waste in the construction of entertainment or educational installations etc (U3)**

- 3.—(1) The use of relevant waste in the construction of installations, exhibits, sets or demonstrations for entertainment or educational purposes.
- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
170102	Bricks
170103	Tiles and ceramics
170201, 200138	Wood

<sup>(68)</sup> 1991 c. 59.

<sup>(68)</sup> 1991 c. 59.

<sup>(69)</sup> PAS 108:2007, Specification for the production of tyre bales for use in construction, ISBN 978 0 580 50349 8.

170203, 200139	Plastic
170401 to 170407, 170411, 200140	Metals including their alloys
200101	Paper and cardboard
200111	Textiles

(3) For the purposes of this paragraph, the specific condition is that the total quantity of waste used or stored prior to use does not exceed 20 tonnes at any one time.

#### **Burning of waste as a fuel in a small appliance (U4)**

4.—(1) The burning of relevant waste as a fuel in an appliance if the requirements in sub-paragraph (4) are met.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 200201	Plant tissue waste only
020107, 170201	Untreated wood only
020304	Vegetable waste unsuitable for consumption or processing
030101	Waste bark and cork
030105	Untreated sawdust and wood shavings other than those mentioned in 030104 only
030301	Waste bark and wood
030310	Fibre rejects (fibrous vegetable waste from virgin pulp preparation or paper pulp production) only
150103	Untreated wooden packaging only

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste burned over any period of 1 hour is less than 50kg;
- (b) the total quantity of waste stored at any one time does not exceed 10 tonnes; and
- (c) the waste is stored in a secure place.

(4) The requirements in this sub-paragraph are that—

- (a) the appliance has a net rated thermal input of less than 0.4 megawatts; and
- (b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

#### **Use of waste derived biodiesel as fuel (U5)**

5.—(1) The use of biodiesel derived from relevant waste as a fuel in a portable generator if the requirements in sub-paragraph (4) are met or in a motor vehicle and the storage of such biodiesel—

- (a) in or on a motor vehicle or in such a portable generator; or
- (b) at a place that is owned or occupied by the owner or user of the biodiesel.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
190210	Waste derived biodiesel only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of biodiesel stored in or on a motor vehicle or in a portable generator at any one time does not exceed 1,000 litres;
  - (b) the total quantity of biodiesel stored at a place owned or occupied by the owner or user of the biodiesel at any one time does not exceed 5,000 litres; and
  - (c) the biodiesel is stored with secondary containment.
- (4) The requirements in this sub-paragraph are that—
- (a) the portable generator has a net rated thermal input of less than 0.4 megawatts; and
  - (b) where it is used together with other portable generators (whether or not it is operated simultaneously with such other generators) the aggregate net rated thermal input of all the generators is less than 0.4 megawatts.

#### **Use of sludge for the purposes of re-seeding a waste water treatment plant (U6)**

6.—(1) The use of relevant waste at a waste water treatment plant for the purposes of re-seeding the plant.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
190805	Sludges from treatment of urban waste water
190812	Sludges from biological treatment of industrial waste water other than those mentioned in 190811

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste used or stored at the plant at any one time does not exceed 1,000 cubic metres; and
  - (b) the waste was not produced at the plant.

#### **Use of effluent to clean a highway gravel bed (U7)**

7.—(1) The use of relevant waste from a water treatment works or a waste water treatment plant to clean a highway gravel bed.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
190899	Effluent only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste used over any 24-hour period does not exceed 10 cubic metres;
  - (b) the highway gravel bed has sealed drainage to ensure that the condition in paragraph (c) can be met;
  - (c) all waste used in and produced by the cleaning operation is collected; and
  - (d) the waste meets any relevant conditions specified in the environmental permit authorising the operation of the water treatment works or waste water treatment plant.

### Use of waste for a specified purpose (U8)

8.—(1) The use of relevant waste for a specified purpose.

(2) For the purposes of this paragraph—

(a) the table specifying relevant waste and the limits referred to in sub-paragraph (3)(a) and (b) is set out below;

(b) “specified purpose” is a purpose specified in the third column of the table.

<i>Codes</i>	<i>Waste types</i>	<i>Specified purpose</i>	<i>Quantity limit (at any one time)</i>
030105, 191207	Wood shavings, woodchip, oversized compost, sawdust only	Use in horse menages	1,000 tonnes
191204	Shredded or granulated rubber and end-of-life tyres only	Use in horse menages	1,000 tonnes
191201	Shredded paper and cardboard	Use as animal bedding	100 tonnes
030305, 030311	Paper pulp and paper sludge from paper recycling only	Use as animal bedding	100 tonnes
030105, 191207	Wood shavings, woodchip, oversized compost, sawdust only	Use as animal bedding	100 tonnes
160103	End-of-life tyres	Use as a weight on cover sheeting on agricultural premises or use as crash barriers	40 tonnes
150102	Geotextile bags (flexible intermediate bulk containers) only	Use as reinforcement in construction	100 bags
020202	Shellfish shells from which the soft tissue or flesh has been removed only	Use for ornamental purposes	50 tonnes
191205	Crushed glass only	Use for ornamental purposes	50 tonnes
200127*, 200128, 080111*, 080112	Paints (excluding specialist and industrial paints, wood preservatives, aerosol and spray paints, inks, adhesives and resins)	Use as paint	1,000 litres
190599	Compost produced for the purposes of growing mushrooms only	Use in growing mushrooms	1,000 tonnes

170102, 170904	Stones and bricks capable of being used in their existing state only	Use in construction of buildings, fencing, barriers, containment or similar above ground construction	100 tonnes
170201, 191207, 200138	Non-hazardous wood including telegraph poles and railway sleepers	Use in construction of buildings, fencing, barriers, containment or similar above ground construction	100 tonnes
110105*, 110107*, 190902, 190903, 190906	Aluminium hydroxide (AlOH) and ferric chloride (FeCl) and sludges/solutions from the treatment of water only	Use in treating waste water effluent and in water treating processes	50 cubic metres
100201, 100202, 170504, 191209	Blast furnace slag and stones only	Use as filter media at waste water treatment works	50,000 tonnes

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total amount of waste used or stored at any one time does not exceed the quantity limit specified in the fourth column;
- (b) in relation to any relevant waste to which code 160103 applies (end-of-life tyres), within the quantity limit specified for that waste type, not more than 10 tonnes is stored together;
- (c) the waste is not treated or required to be treated prior to use; and
- (d) in relation to any relevant waste to which code 110105\* (aluminium hydroxide), 110107\* (ferric chloride), 190902, 190903 or 190906 (sludges/solutions from the treatment of water) applies, the waste is stored—
  - (i) with secondary containment, and
  - (ii) in a location with sealed drainage.

#### Use of waste to manufacture finished goods (U9)

9.—(1) The use of relevant waste to manufacture finished goods.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3)(a) is set out below.

<i>Codes</i>	<i>Waste types</i>	<i>Quantity limit (at any one time)</i>	<i>Additional specific conditions</i>
100101, 100102	Ash only	500 tonnes	A
101208	Ceramics	100 tonnes	A
101112, 150107, 191205, 200102	Glass	5,000 tonnes	A
100105	Gypsum only	500 tonnes	A
200199	Lion faeces only	5 tonnes	B

120101, 120103, 150104, 160117, 160118, 191001, 191002, 191202, 191203, 200140	Metals	500 tonnes	A
150101, 191201, 200101	Paper and cardboard	15,000 tonnes	C, D
070213, 120105, 150102, 191204, 200139	Plastics	500 tonnes	E
191204	Rubber only	30 tonnes	E, F
020106	Sheep, rabbit or deer faeces only	100 tonnes	B
040221, 040222, 150109, 191208, 200110, 200111	Textiles	1,000 tonnes	B
030105, 030301, 150103, 191207, 200138	Wood, bark, cork, sawdust, shavings, cuttings, particle board	100 tonnes	B

- (3) For the purposes of this paragraph, the specific conditions are that —
- (a) the total quantity of waste used or stored at any one time does not exceed the quantity limit specified in the third column of the table in sub-paragraph (2);
  - (b) the waste is stored in a secure location at the place where the manufacturing is carried on;
  - (c) the operation does not involve any activity falling within a description in Part A(1) or Part A(2) of Part 2 of Schedule 1; and
  - (d) the operation complies with such of the following additional specific conditions as are specified in the fourth column of the table—

A	the waste is stored at a location with sealed drainage,
B	the waste is stored indoors or in a secure container,
C	the waste is stored in a baled form, in a container or indoors,
D	within the quantity limit specified in the third column of the table and notwithstanding additional specific condition C, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter,
E	the waste is not subject to heat treatment,
F	the total quantity of waste stored together does not exceed 10 tonnes.

(4) For the purposes of this paragraph, “finished goods” means goods that are ready for use by an end consumer without any further processing.

### **Spreading waste on agricultural land to confer benefit (U10)**

**10.—**(1) The spreading of relevant waste on agricultural land to confer benefit to the land for the purposes of providing, maintaining or improving the soil’s ability to provide a growing medium by adding nutrients, lime or biomass.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity and storage limits referred to in sub-paragraph (3) is set out below.

<i>Codes</i>	<i>Waste types</i>	<i>Quantity limit</i>	<i>Storage limit (at any one time)</i>	<i>Period</i>	<i>Additional specific conditions</i>
010102, 010408, 170504	Chalk only	50 tonnes per hectare	200 tonnes	12 months	A
020106	Farmyard and horse manure only	50 tonnes per hectare	200 tonnes	12 months	A
020401, 020399	Soil from cleaning and washing fruit and vegetables only	50 tonnes per hectare	200 tonnes	12 months	A
020199	Milk from agricultural premises only	50 cubic metres of diluted milk per hectare	200 tonnes	24 hours	A, B, E
100101	Ash from wood chip boilers produced pursuant to an operation described in paragraph U4 only	1 tonne per hectare	10 tonnes	12 months	A
170506	Dredging spoil (other than those mentioned in 170505) generated from the creation or maintenance of habitats, ditches or ponds within parks, gardens, fields and forests only	150 tonnes per hectare	1,250 tonnes	12 months	C
020199	Spent compost from the growing of mushrooms compost only	50 tonnes per hectare	500 tonnes	12 months	A
190599	Compost produced pursuant to a treatment described in paragraph T23 or T26 only	50 tonnes per hectare	500 tonnes	12 months	A
190604	Digestate produced pursuant to a treatment described in paragraph T24 or T25 only	50 tonnes per hectare	200 tonnes	12 months	A
190812	Waste consisting of biobed or biofilter material produced pursuant to a treatment described in paragraph T32 only	50 tonnes per hectare	200 tonnes	12 months	A, D

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste spread does not exceed the limit specified in the third column of the table in sub-paragraph (2) over the period specified in the fifth column;
- (b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table;

- (c) subject to additional specific conditions D and E in sub-paragraph (f), where they apply, no waste is stored for longer than 12 months prior to spreading;
- (d) the waste is stored in a secure location prior to spreading;
- (e) at the time the spreading begins—
- (i) the land has not been frozen for 12 hours or more in the preceding 24 hours,
- (ii) the land is not waterlogged, frozen or snow-covered; and
- (f) the operation complies with such of the following additional specific conditions as are specified in the sixth column of the table—

A	the location of any waste which is stored or land which is spread is at least 10 metres from a watercourse and 50 metres from a spring, well or borehole,
B	prior to spreading, the waste is diluted with not less than an equal quantity of water or slurry and the land is spread not more than once in any 4-week period,
C	the waste is spread adjacent to the place from which it was dredged,
D	the waste is stored for at least 12 months prior to spreading,
E	the waste is not stored for longer than 24 hours prior to spreading.

#### **Spreading waste on non-agricultural land to confer benefit (U11)**

11.—(1) The spreading of relevant waste on land that is not agricultural land for the purposes of providing, maintaining or improving the soil's ability to provide a growing medium by adding nutrients, lime or biomass.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity and storage limits referred to in sub-paragraph (3) is set out below.

<i>Codes</i>	<i>Waste types</i>	<i>Quantity limit (over 12 months)</i>	<i>Storage limit (at any one time)</i>	<i>Additional specific conditions</i>
010102, 010408, 170504	Chalk only	50 tonnes per hectare	200 tonnes	A
020106	Farmyard and horse manure only	50 tonnes per hectare	200 tonnes	A
020202	Shellfish shells from which the soft tissue or flesh has been removed only	50 tonnes per hectare	200 tonnes	A
020399, 020401	Soil from cleaning and washing fruit and vegetables only	50 tonnes per hectare	200 tonnes	A
100101	Ash from wood chip boilers produced pursuant to an operation described in paragraph U4 only	1 tonne per hectare	10 tonnes	A
170506	Dredging spoil (other than those mentioned in 170505) generated from the creation or maintenance of habitats, ditches or ponds within parks, gardens, fields and forests only	150 tonnes per hectare	1,250 tonnes	B

020199	Spent compost from the growing of mushrooms only	50 tonnes per hectare	500 tonnes	A
190599	Compost produced pursuant to a treatment described in paragraph T23 or T26 only	50 tonnes per hectare	500 tonnes	A
190604	Digestate produced pursuant to a treatment described in paragraph T24 or T25 only	50 tonnes per hectare	200 tonnes	A
190812	Waste consisting of biobed or biofilter material produced pursuant to a treatment described in paragraph T32 only	50 tonnes per hectare	200 tonnes	A, C
200108	Coffee grounds only	50 tonnes per hectare	200 tonnes	A

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste spread does not exceed the limit specified in the third column of the table in sub-paragraph (2) over any 12-month period;
- (b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table;
- (c) subject to additional specific condition C in sub-paragraph (f), where it applies, no waste is stored for longer than 12 months prior to spreading;
- (d) the waste is stored in a secure location prior to spreading;
- (e) at the time the spreading begins—
  - (i) the land has not been frozen for 12 hours or more in the preceding 24 hours,
  - (ii) the land is not waterlogged, frozen or snow-covered; and
- (f) the operation complies with such of the following additional specific conditions as are specified in the fifth column of the table—

- |   |                                                                                                                                                           |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| A | the location of any waste which is stored or land which is spread is at least 10 metres from a watercourse and 50 metres from a spring, well or borehole, |
| B | the waste is spread adjacent to the place from which it was dredged,                                                                                      |
| C | the waste is stored for at least 12 months prior to spreading.                                                                                            |

### Use of mulch (U12)

12.—(1) The use of relevant waste as a mulch.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 191207, 200201	Untreated wood and plant matter

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste used or stored over any period of 1 month does not exceed 100 tonnes; and
- (b) the waste is stored in a secure location prior to use.

### Spreading of plant matter to confer benefit (U13)

- 13.—(1) The spreading of relevant waste at the place of production to confer benefit.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 020107, 020304, 200201	Plant tissue only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste spread over any 12-month period does not exceed 50 tonnes per hectare;
  - (b) at the time the spreading begins—
    - (i) the land has not been frozen for 12 hours or more in the preceding 24 hours,
    - (ii) the land is not waterlogged, frozen or snow-covered; and
  - (c) except for waste which is spread on the banks of the waters from which it was produced, no waste is spread within 50 metres of any watercourse, spring, well or borehole.

### Incorporation of ash into soil (U14)

- 14.—(1) The incorporation of ash which is relevant waste into soil resulting from a qualifying operation.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 020107, 200201	Ash from burning of plant tissue only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste incorporated into soil does not exceed 10 tonnes per hectare; and
  - (b) ashes of burnt cereal, straw or cereal stubble are not allowed, without reasonable excuse, proof of which lies on the establishment or undertaking carrying on the operation, to remain on the soil for longer than 24 hours after the commencement of the burning but must be incorporated into the soil—
    - (i) within that period, or
    - (ii) in a case where, having regard to wind conditions to do so would be likely to cause nuisance, as soon as conditions allow.
- (4) For the purposes of this paragraph, a “qualifying operation” is one that—
- (a) involves the burning of cereal straw or cereal stubble;
  - (b) falls within a description in paragraph D7; and
  - (c) complies with the specific conditions specified in that paragraph and the general conditions specified in Chapter 3.

### Pig and poultry ash (U15)

- 15.—(1) The spreading of relevant waste on agricultural land at the place of production.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
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190112	Ash from the incineration of pig and poultry carcasses only
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- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste spread over any 12-month period does not exceed 150kg per hectare;
  - (b) the waste is mixed with an equal volume or more of manure or slurry prior to spreading;
  - (c) the waste is stored in a secure place prior to spreading;
  - (d) the location of the waste which is stored or land which is spread is at least—
    - (i) 10 metres from a watercourse,
    - (ii) 50 metres from a spring, well or borehole; and
  - (e) at the time of the spreading—
    - (i) the land has not been frozen for 12 hours or more in the preceding 24 hours,
    - (ii) the land is not waterlogged, frozen or snow-covered.

#### **Use of depolluted end-of-life vehicles for vehicle parts (U16)**

- 16.—(1) The use of relevant waste for vehicle parts.
- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
160106	End-of-life vehicles, containing neither liquids nor other hazardous components
160122	Non-hazardous components from end-of-life vehicles only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) no more than two depolluted end-of-life vehicles are stored at any one time;
  - (b) in relation to relevant waste to which code 160122 applies (non-hazardous components from end-of-life vehicles), the total quantity of waste stored at any one time does not exceed 5 cubic metres;
  - (c) the waste is stored in a secure place;
  - (d) the waste is stored on an impermeable surface; and
  - (e) the operation is for the purposes of re-using the waste.
- (4) For the purposes of this paragraph and in relation to an end-of-life vehicle, “depolluted” means that the vehicle has been subjected to all of the operations described in paragraph 3 of Annex 1 to the End-of-Life Vehicles Directive.

### CHAPTER 3

#### Treatment of waste

#### SECTION 1

##### *Introductory*

1. The descriptions in this Chapter—
  - (a) are set out in the first sub-paragraph of paragraphs T1 to T33; and
  - (b) include associated storage.

2. The specific conditions for each description in this Chapter are set out in the third sub-paragraph of paragraphs T1 to T33.

3. The general condition for the descriptions in this Chapter is that the operation is for the purposes of recovering the waste, unless otherwise stated in the specific conditions.

## SECTION 2

### *Descriptions and specific conditions*

#### **Cleaning, washing, spraying or coating relevant waste (T1)**

1.—(1) The treatment of relevant waste by cleaning, washing, spraying or coating it, subject to sub-paragraph (4).

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
150105	Composite packaging
160120, 150107, 170202, 191205, 200102	Glass
150101	Paper and cardboard packaging
020104, 070213, 150102, 160119, 170203, 200139	Plastic
150109	Textile packaging

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste treated over any 7-day period does not exceed 300 tonnes;
- (b) subject to paragraph (e), the total quantity of waste stored at any one time does not exceed 300 tonnes;
- (c) the waste is stored and treated in a location with sealed drainage;
- (d) no waste is stored for longer than 3 months prior to treatment;
- (e) where the waste consists of containers that have been used to contain a dangerous substance, the total quantity of waste stored does not exceed 1 tonne over any 7-day period; and
- (f) the waste is not contaminated by more than 1% of its original volume prior to treatment.

(4) The description in sub-paragraph (1) does not include cleaning, washing, spraying or coating of any relevant waste if this falls within Part B of section 6.4 of Part 2 of Schedule 1.

(5) In this paragraph, “dangerous substance” has the meaning given in regulation 2(1) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009(70).

(6) References in this paragraph to quantity limits by weight include the weight of any contamination.

#### **Recovery of textiles (T2)**

2.—(1) The treatment of relevant waste by laundering or otherwise cleaning it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

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(70) S.I. 2009/716.

<i>Codes</i>	<i>Waste types</i>
191208	Textiles
200110	Clothes
200111	Textiles

- (3) For the purposes of this paragraph, the specific conditions are that—
- the total quantity of waste treated or stored at any one time does not exceed 20,000 tonnes; and
  - the waste is treated and stored at a location with sealed drainage.

**Treatment of waste metals and metal alloys by heating for the purposes of removing grease etc (T3)**

3.—(1) The treatment of relevant waste for the purposes of removing grease, oil or any other non-metallic contaminant by heating it in an appliance where the requirements of sub-paragraph (4) are met using a process that is not an excluded process.

- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
160117	Ferrous metal
160118	Non ferrous metal
191001	Iron and steel waste
191002	Non ferrous waste
191202	Ferrous metal
191203	Non ferrous metal
200140	Metals

- (3) For the purposes of this paragraph, the specific conditions are that—
- the total quantity of waste stored or treated at any one time does not exceed 10 tonnes; and
  - the waste is stored in a secure location with sealed drainage.
- (4) The requirements in this sub-paragraph are that—
- the appliance has a net rated thermal input of less than 0.2 megawatts; and
  - where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.2 megawatts.
- (5) The processes that are excluded processes for the purposes of sub-paragraph (1) are—
- the removal by heat of plastic or rubber covering from scrap cable or any asbestos contaminant;
  - a process that is an activity listed in Section 2.1 (other than paragraph (d) of Part B) of Part 2 of Schedule 1 involving the heating of iron, steel or ferrous alloy; and
  - a process that is an activity described in Part A(1) or A(2) of Section 2.2 of Part 2 of Schedule 1 involving the heating of any non-ferrous metal or non-ferrous metal alloy.

#### Preparatory treatments (baling, sorting, shredding etc) (T4)

4.—(1) The treatment of relevant waste by baling, sorting, shredding, pulverising, densifying, crushing or compacting it.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3) is set out below.

<i>Codes</i>	<i>Waste types</i>	<i>Treatment limit (over 7 days)</i>	<i>Storage limit (at any one time)</i>
150104, 200140	Cans and foils only	100 tonnes where treatment is carried on outdoors 500 tonnes where treatment is carried on indoors	500 tonnes
070213, 150105	150102, Food and drink cartons only	100 tonnes where treatment is carried on outdoors 3,000 tonnes where treatment is carried on indoors	500 tonnes
150107, 170202, 200102	160120, 191205, Glass	5,000 tonnes	5,000 tonnes
030308, 150101, 200101	030307, 191201, Paper and cardboard (excluding food and drink cartons)	500 tonnes where treatment is carried on outdoors 3,000 tonnes where treatment is carried on indoors	15,000 tonnes
020104, 120105, 160119, 191204, 200139	070213, 150102, 170203, Plastic	100 tonnes where treatment is carried on outdoors 3000 tonnes where treatment is carried on indoors	500 tonnes
040222, 191208, 200111	150109, 200110, Textiles and clothes	1,000 tonnes where treatment is carried on outdoors 3,000 tonnes where treatment is carried on indoors	1,000 tonnes

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) subject to paragraph (d), the total quantity of waste treated over any 7-day period does not exceed the limit specified in the third column of the table in sub-paragraph (2);
- (b) the total quantity of waste stored at any one time does not exceed the limit specified in the fourth column of the table;
- (c) no waste is stored for longer than 12 months;
- (d) where the treatment involves pulverising waste—
  - (i) the total quantity of waste treated over any 7-day period does not exceed 5 tonnes,
  - (ii) the treatment is carried on indoors;

- (e) where the treatment involves densifying waste, the treatment does not involve the application of heat;
- (f) the treatment and storage are carried on in a secure place;
- (g) the waste arrives at the place where the operation is carried on unmixed with any other type of waste;
- (h) the waste is treated and stored in an unmixed state; and
- (i) in relation to relevant waste to which codes 030308, 030307, 150101, 191201, 200101 apply (paper and cardboard)—
  - (i) the waste is stored in a baled form, in a container or indoors,
  - (ii) within the storage limit specified in the fourth column of the table, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter.

#### Screening and blending of waste (T5)

5.—(1) The treatment of relevant waste by screening and blending it for the purposes of producing an aggregate or soil and associated prior treatment.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
010408	Waste gravel and crushed rocks other than those mentioned in 010407
010409	Waste sand and clays
020202	Shellfish shells from which the soft tissue or flesh has been removed only
030101	Waste bark and cork
030301	Waste bark and wood
100101	Bottom ash, slag and boiler dust (excluding boiler dust mentioned in 100104)
100115	Bottom ash, slag and boiler dust from co-incineration other than those mentioned in 100114
170101	Concrete
170102	Bricks
170103	Tiles and ceramics
170107	Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 170106
170201	Wood
170302	Bituminous mixtures other than those mentioned in 170301
170504	Soil and stones other than those mentioned in 170503
170506	Dredging spoil other than those mentioned in 170505
170508	Track ballast other than those mentioned in 170507

190599	Compost produced pursuant to a treatment described in paragraphs T23 or T26 only
191205	Glass
191209	Aggregates only
191212	Gypsum recovered from construction materials only
191302	Solid wastes from soil remediation other than those mentioned in 191301
191304	Sludges from soil remediation other than those mentioned in 191303
200202	Soil and stones

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) in relation to any relevant waste to which code 170302 applies (bituminous mixtures other than those mentioned in 170301) where the treatment is for the purposes of manufacturing roadstone, the total quantity of waste treated or stored over any 3-year period does not exceed 50,000 tonnes;
  - (b) in relation to relevant waste not covered by paragraph (a), the total quantity of waste treated or stored over any 3-year period does not exceed 5,000 tonnes;
  - (c) no waste is stored for longer than 12 months; and
  - (d) the treatment is carried on at the place—
    - (i) of production, or
    - (ii) where the treated waste is to be used.

(4) In this paragraph, “associated prior treatment” means crushing relevant waste for the purposes of screening or blending it but does not include crushing of any relevant waste which falls within Part B of Section 3.5 of Part 2 of Schedule 1 or within paragraph T7.

#### **Treatment of waste wood and waste plant matter by chipping, shredding, cutting or pulverising (T6)**

- 6.—(1) The treatment of relevant waste by chipping, shredding, cutting or pulverising it.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 200201	Plant tissue waste
030101, 030301, 170201	Wood
150103	Untreated wooden packaging only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste treated or stored over any 7-day period does not exceed 500 tonnes; and
  - (b) no waste is stored for longer than 3 months after treatment.

### **Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size (T7)**

7.—(1) The treatment of relevant waste by crushing, grinding or reducing it in size but not including any treatment activity covered by paragraph (c) in Part B of Section 3.5 of Part 2 of Schedule 1.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
170101	Concrete
170102	Bricks
170103	Tiles and ceramics
170107	Mixtures of concrete, bricks, tiles and ceramics (other than those mentioned in 170106*)

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste treated over any period of 1 hour does not exceed 20 tonnes;
- (b) the total quantity of waste stored at any one time does not exceed 200 tonnes;
- (c) the waste is stored in a secure place prior to treatment;
- (d) the treatment is carried on—
  - (i) at the place of production, or
  - (ii) at the place where the treated waste is to be used; and
- (e) the operation does not result in the release into the air of a substance listed in paragraph 6(3) of Part 1 of Schedule 1 except in a quantity which is so trivial that it is incapable of causing pollution or its capacity to cause pollution is insignificant.

### **Mechanical treatment of end-of-life tyres (T8)**

8.—(1) The treatment of end-of-life tyres, including such tyres in a shredded or granulated form, that are relevant waste by a relevant treatment operation and associated prior treatment.

(2) The table specifying relevant waste and relevant treatment operations for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>	<i>Relevant treatment operation</i>
160103	End-of-life tyres	Granulating, baling, peeling, shaving, shredding and re-treading of tyres
191204	Shredded or granulated end-of-life tyres only	Granulating

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste stored or treated over any 7-day period does not exceed—
  - (i) 60 tonnes of truck tyres, or
  - (ii) 40 tonnes of any other tyres;
- (b) within the limits in paragraph (a), the total quantity stored together does not exceed 10 tonnes;

(c) in relation to any relevant treatment operation that is granulating, the treatment is carried on indoors; and

(d) in relation to any relevant treatment operation that is re-treading, the treatment is for the purposes of re-using the waste.

(4) In this paragraph, “associated prior treatment” means cleaning tyres and separating rims from them prior to treatment.

### **Recovery of scrap metal (T9)**

9.—(1) The recovery of scrap metal consisting of relevant waste by—

(a) sorting, grading, shearing by manual feed, baling or crushing it; or

(b) cutting it with hand-held equipment.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020110	Waste metal
150104	Metallic packaging
160117, 191202	Ferrous metal
160118, 191203	Non ferrous metal
170401	Copper, bronze, brass
170402	Aluminium
170403	Lead
170404	Zinc
170405	Iron and steel
170406	Tin
170407	Mixed metals
170411	Cables other than those mentioned in 170410
200140	Metals

(3) For the purposes of this paragraph, the specific conditions are that—

(a) the total quantity of waste treated or stored at any one time does not exceed 1,000 tonnes;

(b) within the limit in paragraph (a), the total quantity of any cables stored or treated does not exceed 50 tonnes;

(c) no waste is stored for longer than 24 months;

(d) the recovery is carried on at a location with sealed drainage; and

(e) the height of any pile or stack of waste does not exceed 5 metres.

### **Sorting mixed waste (T10)**

10.—(1) The sorting of one type of relevant waste from one or more other types of relevant waste.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
150101, 200101	Paper and cardboard
150102, 200139	Plastics
150104, 200140	Metals
150105	Composite packaging
150106	Mixed packaging
150107, 200102	Glass
150109, 200110, 200111	Textiles and clothing only

- (3) For the purposes of this paragraph, the specific conditions are that—
- the total quantity of waste stored at any one time does not exceed 10 tonnes;
  - the total quantity of waste treated over any 7-day period does not exceed 10 tonnes; and
  - the waste is stored in a secure place.

#### **Repair or refurbishment of WEEE (T11)**

**11.**—(1) The treatment of WEEE that is relevant waste by repairing or refurbishing it, including any prior dismantling.

- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
160211*	WEEE containing CFCs, HCFCs and HFCs
160213*	WEEE containing hazardous components other than those mentioned in 160209 to 160212
160214	WEEE other than those mentioned in 160209 to 160213
160216	Components removed from discarded equipment other than those mentioned in 160215
200123*	WEEE containing CFCs
200135*	WEEE other than those mentioned in 200121 and 200123 containing hazardous components
200136	WEEE other than those mentioned in 200121, 200123, and 200135

- (3) For the purposes of this paragraph, the specific conditions are that—
- the total quantity of waste treated or stored over any 12-month period does not exceed 1,000 tonnes;
  - the best available treatment, recovery and recycling techniques are used when treating the waste;
  - the operation meets the technical requirements specified in Annex III to the WEEE Directive;
  - in relation to any relevant waste falling within codes 160211\* (WEEE containing CFCs, HCFCs and HFCs) or 200123\* (WEEE containing CFCs), the waste is stored in such a manner so as to prevent the release of CFCs, HCFCs and HFCs;

- (e) the waste is stored in such a manner that its environmentally sound reuse or recycling is not hindered; and
- (f) the operation is for the purposes of—
- (i) re-using the WEEE for its original purpose, or
  - (ii) re-using any dismantled components for their original purpose.
- (4) In this paragraph—
- (a) “best available treatment, recovery and recycling techniques” has the meaning given in the document published jointly by the Department for Environment, Food and Rural Affairs, the Welsh Assembly Government and the Scottish Executive on 27th November 2006, entitled “Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE)”<sup>(71)</sup>;
  - (b) “CFCs” means chlorofluorocarbons;
  - (c) “HCFCs” means hydrochlorofluorocarbons;
  - (d) “HFCs” means hydrofluorocarbons; and
  - (e) “treatment” does not include the degassing or capture of ozone depleting substances.

### Manual treatment of waste (T12)

- 12.—(1) The manual treatment of relevant waste by a relevant treatment operation.
- (2) The table specifying—
- (a) relevant waste for the purposes of this paragraph and relevant treatment operations;
  - (b) the quantity limits referred to in sub-paragraph (3)(a); and
  - (c) the additional specific conditions referred to in sub-paragraph (3)(c),
- is set out below.

<i>Codes</i>	<i>Waste types</i>	<i>Relevant treatment operation</i>	<i>Quantity limits (at any one time)</i>	<i>Additional specific conditions</i>
200199	Bicycles only	Sorting, repairing or refurbishing	100 tonnes	A
200110, 200111	Clothing, fabrics, carpets only	Sorting, repairing or refurbishing	100 tonnes	A
200138, 200139, 200140	Coat hangers only	Sorting and dismantling	100 tonnes	B
200140	Domestic pots and pans only	Sorting and dismantling	100 tonnes	
200199	Footwear only	Sorting, repairing or refurbishing	100 tonnes	A
200307	Furniture only	Sorting, repairing or refurbishing	100 tonnes	A
200138, 200139, 200140	Garden tools only	Sorting, repairing or refurbishing	100 tonnes	A

(71) Available on the Defra website - <http://www.defra.gov.uk/environment/waste/producer/electrical/documents/weee-batrrt-guidance.pdf>. See paragraphs 22 to 36.

200138, 200139, 200140	Lock gates only	Sorting and dismantling	100 tonnes	
200307	Mattresses only	Sorting and dismantling	5 tonnes	B, C
170102, 170904, 200138	170201, Stone, bricks, wood only	Sorting, repairing or refurbishing	500 tonnes	A
200137*, 200140	200138, Telegraph poles only	Sorting and dismantling	100 tonnes	B
170201, 170203, 200138, 200139, 200140	170202, 200102, Windows, doors only	Sorting, repairing or refurbishing	100 tonnes	A
170201, 170203, 200138, 200139, 200140	170202, 200102, Windows, doors only	Sorting and dismantling	10 tonnes	B
150103	Wooden pallets only	Sorting, repairing or refurbishing	100 tonnes	A
150103	Wooden pallets only	Sorting and dismantling	100 tonnes	B

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste treated or stored at any one time does not exceed the limit specified in the fourth column of the table in sub-paragraph (2);
- (b) subject to additional specific condition B in sub-paragraph (c), where it applies, no waste is stored for longer than 2 years; and
- (c) the operation complies with such of the following additional specific conditions as is specified in the fifth column of the table—

- 
- A the operation is for the purposes of reusing the waste,  
 B no waste is stored for longer than 12 months,  
 C treatment and storage are carried on indoors.
- 

### **Treatment of waste food (T13)**

**13.**—(1) The treatment of waste food that is relevant waste by decanting or unwrapping it, bulking it up and sorting it.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020203, 020501	Milk only
020304, 020501, 020601, 020704	Materials unsuitable for consumption or processing excluding milk only
200199	Non liquid foods unsuitable for consumption or processing but excluding foods covered by the Animal By-Products Regulations only

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste treated or stored at any one time does not exceed 30 tonnes;
- (b) the treatment and storage are carried on—
  - (i) indoors,
  - (ii) in a secure place;
- (c) no waste is stored for longer than 7 days;
- (d) in relation to relevant waste specified in the first row of the table in sub-paragraph (2) (milk only), the operation is carried on in a dairy which has sealed drainage; and
- (e) any resultant waste packaging is bulked up for the purposes of recovery.

#### **Crushing and emptying waste vehicle oil filters (T14)**

**14.**—(1) The treatment of waste vehicle oil filters consisting of relevant waste by crushing and emptying them.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
160107*	Oil filters

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste stored after treatment does not exceed 1 tonne of crushed and emptied oil filters at any one time;
  - (b) the treatment is carried on at the place of production;
  - (c) the equipment used to treat the waste is—
    - (i) designed for the purposes of crushing oil filters,
    - (ii) designed and maintained to ensure that oil does not escape during treatment; and
  - (d) the treatment takes place as soon as practicable after the oil filter is removed from a vehicle.

#### **Treatment of waste aerosol cans (T15)**

**15.**—(1) The treatment of empty used waste aerosol cans consisting of relevant waste by puncturing and crushing them.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
160504*	Aerosol cans containing residues of or contaminated by dangerous substances only
160505	Aerosol cans only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste treated or stored in any 12-month period does not exceed 3,000 cans;
  - (b) the waste is stored in a secure location in vented containers prior to treatment;
  - (c) the treatment and storage are carried on—
    - (i) at the place of production,
    - (ii) in a well-ventilated area; and

- (d) the equipment used to treat the waste is designed for that purpose.

#### **Treatment of waste toner cartridges by sorting, dismantling, cleaning or refilling (T16)**

16.—(1) The treatment of waste toner cartridges consisting of relevant waste by sorting, dismantling, cleaning or refilling them.

- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
080318	Waste printing toner other than those mentioned in 080317
150102	Plastic packaging
160216	Cartridges taken from discarded equipment other than those mentioned in 160215 only
200139	Plastics

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste treated or stored at any one time does not exceed 50,000 cartridges; and
  - (b) the treatment is carried on—
    - (i) indoors,
    - (ii) at a location with sealed drainage.

#### **Crushing waste fluorescent tubes (T17)**

17.—(1) The crushing of relevant waste for the purposes of volume reduction prior to collection.

- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
200121*	Fluorescent tubes only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste crushed over any period of 24 hours does not exceed 3 tonnes;
  - (b) the crushing is carried on at the place of production;
  - (c) the equipment used for crushing is designed for the purposes of crushing and volume reduction;
  - (d) the mercury concentration in any resultant emissions does not exceed 25 microgrammes per cubic metre; and
  - (e) any glass or mercury released after crushing is stored in a secure container under weatherproof covering.

#### **Dewatering using flocculants (T18)**

18.—(1) The treatment of relevant waste by dewatering using flocculants.

- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
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010409	Clay effluent resulting from the manufacture of ceramics only
080120	Water based paint wash waters only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste stored or treated at any one time does not exceed 30,000 litres; and
  - (b) the waste is stored in a container with secondary containment.

#### **Physical treatment of waste edible oil and fat to produce biodiesel (T19)**

- 19.—(1) The physical treatment of relevant waste for the purposes of producing biodiesel.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
200125	Edible oil and fat

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste treated or stored at any one time does not exceed 5,000 litres;
  - (b) the waste is treated and stored in a container with secondary containment;
  - (c) no waste is stored for longer than 3 months; and
  - (d) the operation is for the purposes of reusing the waste.

#### **Treatment of waste at a water treatment works (T20)**

- 20.—(1) The treatment of relevant waste at a water treatment works.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
190902	Sludges from water clarification
190903	Sludges from decarbonation
190906	Solutions and sludges from regeneration of ion exchangers
190999	Waste water and bore hole flushings only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste treated at the works over any period of 12 months does not exceed 10,000 cubic metres; and
  - (b) the waste is treated and stored in a secure location with sealed drainage.

#### **Recovery of waste at a waste water treatment works (T21)**

- 21.—(1) The recovery of relevant waste at a waste water treatment works.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
190801	Screenings

190802	Sewage grit (waste from desanding) only
190805	Sludges from treatment of urban waste water
190899	Centrate liquor only
190902	Sludges from water clarification
190903	Sludges from decarbonation
190906	Solutions and sludges from regeneration of ion exchangers
200304	Septic tank sludge
200306	Waste from sewage cleaning
200399	Cesspool waste and other sewage sludge only

- (3) For the purposes of this paragraph, the specific conditions are that—
- the total quantity of waste brought to the works over any period of 12 months does not exceed 100,000 cubic metres; and
  - the waste is treated and stored in a secure location with sealed drainage.

#### **Treatment of animal by-product waste at a collection centre (T22)**

- 22.**—(1) The treatment of animal by-products consisting of relevant waste at a collection centre.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020102, 020202	Animal tissue waste
020203	Materials unsuitable for consumption or processing

- (3) For the purposes of this paragraph, the specific conditions are that—
- the total quantity of waste treated or stored at any one time does not exceed 10 tonnes; and
  - the operation is carried on in accordance with an authorisation under regulation 27 of the Animal By-Products Regulations.
- (4) In this paragraph—
- “animal by-product” has the same meaning as in Article 2(1)(a) of Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption<sup>(72)</sup>;
  - “collection centre” has the same meaning as in paragraph 18 of Annex 1 to that Regulation.

#### **Aerobic composting and associated prior treatment (T23)**

- 23.**—(1) The treatment of relevant waste by aerobic composting and associated prior treatment.  
(2) The tables specifying relevant waste for the purposes of this paragraph are set out below.

**Table 1**

<i>Codes</i>	<i>Waste types</i>
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<sup>(72)</sup> OJ No L. 273, 10.10.2002, p1.

170506	Plant tissue waste from inland waters only
020103, 200201	Plant tissue waste
020106	Horse manure and farmyard manure only
020107	Biodegradable waste from forestry only
200101	Paper and cardboard
200201	Biodegradable waste plant matter only

**Table 2**

<i>Codes</i>	<i>Waste types</i>
020202	Animal tissue waste
020501, 020601	Materials unsuitable for consumption or processing
200108	Biodegradable kitchen and canteen waste
200302	Biodegradable waste from markets only

- (3) For the purposes of this paragraph, the specific conditions are—
- (a) the total quantity of waste treated or stored at any one time does not exceed 80 tonnes where—
    - (i) the operation is carried on at the place of production, and
    - (ii) the treated waste is being or is to be used at that place;
  - (b) the total quantity of waste treated or stored at any one time does not exceed 60 tonnes where—
    - (i) the waste is produced at a place other than where the operation is carried on, or
    - (ii) the treated waste is not to be used at the place where the operation is carried on;
  - (c) within the quantity limits in paragraphs (a) and (b), the waste does not consist at any one time of more than the following quantities—
    - (i) 10 tonnes of paper or cardboard,
    - (ii) 20 tonnes of manure,
    - (iii) 10 tonnes of any relevant waste listed in Table 2;
  - (d) in relation to relevant waste listed in Table 1, no waste is stored for longer than 1 month prior to treatment;
  - (e) in relation to relevant waste listed in Table 2, no waste is stored for longer than 7 days prior to treatment;
  - (f) no waste is stored for a period of longer than 12 months after treatment; and
  - (g) the treatment results in a stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land.
- (4) In this paragraph—
- “aerobic composting” means the autothermic and thermophilic biological decomposition and stabilisation of biodegradable waste under controlled conditions that are aerobic;
- “associated prior treatment” means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of aerobic composting.

### **Anaerobic digestion at premises used for agriculture and burning of resultant biogas (T24)**

24.—(1) The treatment by anaerobic digestion of relevant waste at premises used for agriculture and associated prior treatment and the burning of any resultant biogas.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 020107, 170506, 200201	Plant tissue waste
020106	Horse and farmyard manure, slurry only

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste treated or stored at any one time does not exceed 1,250 cubic metres;
- (b) the minimum retention time for the waste in the digester is 28 days; and
- (c) any gas resulting from the operation is collected and then burnt in an appliance—
  - (i) where the requirements of sub-paragraph (5) are met, and
  - (ii) the appliance is for the purposes of producing energy.

(4) In this paragraph, “associated prior treatment” means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of anaerobic digestion.

(5) The requirements in this sub-paragraph are that—

- (a) the appliance has a net rated thermal input of less than 0.4 megawatts; and
- (b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

### **Anaerobic digestion at premises not used for agriculture and burning of resultant biogas (T25)**

25.—(1) The treatment by anaerobic digestion of relevant waste at premises not used for agriculture and associated prior treatment and the burning of any resultant biogas.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 020107, 170506, 200201	Plant tissue waste
020106	Horse and farmyard manure only
200101	Paper and cardboard
200108	Biodegradable kitchen and canteen waste
020202	Animal tissue waste
020501, 020601	Materials unsuitable for consumption or processing
200302	Biodegradable waste from markets only

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste treated or stored at any one time does not exceed 50 cubic metres;

- (b) the minimum retention time for the waste in the digester is 28 days; and
- (c) any gas resulting from the operation is collected and then burnt in an appliance—
  - (i) where the requirements of sub-paragraph (5) are met, and
  - (ii) the appliance is for the purposes of producing energy.
- (4) In this paragraph, “associated prior treatment” means screening, chipping, shredding, cutting, pulverising or sorting waste for the purposes of anaerobic digestion.
- (5) The requirements in this sub-paragraph are that—
  - (a) the appliance has a net rated thermal input of less than 0.4 megawatts; and
  - (b) where it is used together with other appliances (whether or not it is operated simultaneously with such other appliances), the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

#### **Treatment of kitchen waste in a wormery (T26)**

- 26.**—(1) The treatment in a wormery of relevant waste originating from a kitchen.
- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
200101	Paper and cardboard
200108	Biodegradable kitchen and canteen waste

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste treated over any 12-month period does not exceed 6 tonnes; and
  - (b) the treatment results in a stable sanitised vermicompost that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land.

#### **Treatment of sheep dip for disposal (T27)**

- 27.**—(1) The treatment of used organophosphate sheep dip consisting of relevant waste for the purposes of its disposal.
- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020109	Organophosphate sheep dip only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) total quantity of waste treated or stored over any 24-hour period does not exceed 8,000 litres;
  - (b) the waste is treated using organophosphate-degrading enzyme in accordance with the enzyme manufacturer’s instructions;
  - (c) the treatment and storage are carried on at the place of production; and
  - (d) the treatment is carried on in a secure sheep dip bath.

### Sorting and de-naturing of controlled drugs for disposal (T28)

28.—(1) The treatment of controlled drugs consisting of relevant waste by sorting and de-naturing them prior to their disposal.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
180109	Medicines from natal care, diagnosis, treatment or prevention of disease in humans
180208	Medicines from research, diagnosis, treatment or prevention of disease involving animals
200132	Medicines separately collected as municipal waste

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste treated or stored at any one time does not exceed 1 cubic metre;
- (b) the treatment and storage are carried on at the place of production; and
- (c) no waste is stored for longer than 6 months.

(4) In this paragraph, “controlled drug” means a controlled drug specified in Schedules 1 to 5 to the Misuse of Drugs Regulations 2001(73).

### Treatment of non-hazardous pesticide washings by carbon filtration for disposal (T29)

29.—(1) The treatment of non-hazardous pesticide washings that are relevant waste by carbon filtration for the purposes of disposal.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020109, 160509	Non-hazardous pesticide washings only

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste treated or stored over any 24-hour period does not exceed 8,000 litres;
- (b) the treatment and storage are carried on at the place of production; and
- (c) the treatment is carried on in a location with sealed drainage.

### Recovery of silver (T30)

30.—(1) The recovery of silver from relevant waste produced in connection with printing or photographic processes.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
090107	Photographic film or paper containing silver or silver compounds

(3) For the purposes of this paragraph, the specific conditions are that—

(73) S.I. 2001/3998; relevant amending instruments are S.I. 2003/1432, 2005/1653, 2005/3372 and 2007/2154.

- (a) the total quantity of waste stored or treated at any one time does not exceed 1,000 litres; and
- (b) the treatment and storage are carried on in a location with sealed drainage.

### **Recovery of monopropylene glycol from aircraft antifreeze fluids (T31)**

**31.**—(1) The recovery of monopropylene glycol by filtering and distilling relevant waste collected following de-icing of aircraft.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
160115	Antifreeze fluids other than those mentioned in 160114

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste treated or stored over any 7-day period does not exceed 250 cubic metres;
  - (b) the waste is treated in a location with sealed drainage;
  - (c) the operation is carried on at the place where the waste is produced; and
  - (d) the waste is stored with secondary containment.

### **Treatment of waste in a biobed or biofilter (T32)**

**32.**—(1) The treatment of relevant waste in a lined biobed or above ground biofilter.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020109, 160509	Non-hazardous pesticide washings only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste treated or stored over any 12-month period does not exceed 15,000 litres;
  - (b) the biobed or biofilter is located at a secure place that is—
    - (i) at least 10 metres from a watercourse,
    - (ii) at least 50 metres from a spring or well or from any borehole not used to supply water for domestic or food production purposes,
    - (iii) at least 250 metres from any borehole used to supply water for domestic or food production purposes,
    - (iv) not within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction that is used to supply water for domestic or food production purposes;
  - (c) the biobed or biofilter —
    - (i) is designed and maintained for the treatment operation,
    - (ii) has an impermeable lining; and
  - (d) the treatment is carried on at the place of production.

### Recovery of central heating oil by filtration (T33)

- 33.—(1) The recovery of central heating oil by filtering relevant waste.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
130701*	Central heating oil only

- (3) For the purposes of this paragraph, the specific conditions are that—
- the total quantity of waste treated over any 7-day period does not exceed 400 litres;
  - the waste is stored with secondary containment;
  - the treatment is carried on at a location with sealed drainage; and
  - the operation is for the purposes of reusing the waste.

## CHAPTER 4

### Disposal of waste

#### SECTION 1

##### *Introductory*

- The descriptions in this Chapter—
  - are set out in the first sub-paragraph of paragraphs D1 to D8; and
  - include associated storage.
- The specific conditions for each description in this Chapter are set out in the third sub-paragraph of paragraphs D1 to D8.
- The general condition for all descriptions in this Chapter is that the operation is carried on at the place of production.

#### SECTION 2

##### *Descriptions and specific conditions*

### Deposit of waste from dredging of inland waters (D1)

- 1.—(1) The deposit of relevant waste arising from the dredging of inland waters and associated screening and dewatering.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
170506	Dredging spoil other than those mentioned in 170505

- (3) For the purposes of this paragraph, the specific conditions are that—
- the total quantity of waste deposited or treated over any 12-month period does not exceed 50 cubic metres for each metre of land on which the waste is deposited; and
  - the waste is deposited at the closest possible point to where the waste was produced on—
    - the bank of the inland waters from which the waste was produced, or
    - such width of land adjoining the inland waters so as to enable the waste to be removed and deposited by mechanical means in one operation.

### **Deposit of waste from a railway sanitary convenience (D2)**

- 2.—(1) The deposit of relevant waste on to a railway track.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
200399	Wastes from railway sanitary conveniences only

(3) For the purposes of this paragraph, the specific condition is that the total quantity of waste deposited per discharge does not exceed 25 litres.

(4) In this paragraph, “railway sanitary convenience” means a sanitary convenience or sink forming part of a vehicle used for the carriage of passengers on a railway.

### **Deposit of waste from a portable sanitary convenience (D3)**

- 3.—(1) The deposit of relevant waste by burying it.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
200399	Waste from portable sanitary conveniences only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste deposited over any 12-month period does not exceed 1 cubic metre; and
  - (b) no waste is deposited within—
    - (i) 10 metres of any watercourse,
    - (ii) 50 metres of any spring, well or borehole.

### **Deposit of agricultural waste consisting of plant tissue under a Plant Health notice (D4)**

- 4.—(1) The deposit of agricultural waste that is relevant waste.  
(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103	Plant tissue waste

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the deposit is required under a Plant Health notice;
  - (b) where waste is deposited into a pile, the pile—
    - (i) does not exceed 250 tonnes, and
    - (ii) is not immediately adjacent to another pile of the same type of waste;
  - (c) at the time the deposit is made—
    - (i) the land has not been frozen for 12 hours or more in the preceding 24 hours,
    - (ii) the land is not waterlogged, frozen or snow-covered; and
  - (d) no waste is deposited within—
    - (i) 10 metres of any watercourse,

- (ii) 50 metres of any spring, well or borehole.

### **Depositing samples of waste for the purposes of testing or analysing them (D5)**

5.—(1) The deposit and subsequent storage of relevant samples of waste at any place where the samples are being or are to be tested or analysed.

(2) For the purposes of sub-paragraph (1), “relevant samples of waste” means samples of waste that are taken—

- (a) in the exercise of any power under—
- (i) the 1993 Act,
  - (ii) the Control of Pollution Act 1974<sup>(74)</sup>,
  - (iii) section 5 of the Control of Pollution (Amendment) Act 1989<sup>(75)</sup>,
  - (iv) the 1990 Act,
  - (v) the 1991 Act,
  - (vi) the Water Industry Act 1991<sup>(76)</sup>,
  - (vii) the Waste Electrical and Electronic Equipment Regulations 2006<sup>(77)</sup>,
  - (viii) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 <sup>(78)</sup>,
  - (ix) regulation 88 of the Waste Batteries and Accumulators Regulations 2009<sup>(79)</sup>;
- (b) by or on behalf of the holder of an environmental permit;
- (c) by or on behalf of a person carrying on in relation to the waste—
- (i) an operation described in this Part, or
  - (ii) an excluded waste operation;
- (d) by or on behalf of the owner or occupier of the land from which the samples are taken;
- (e) by or on behalf of any person to whom section 34(1) or (1A) of the 1990 Act<sup>(80)</sup> applies in connection with that person’s duties under that section;
- (f) by or on behalf of any person to whom the Transfrontier Shipment of Waste Regulations 2007<sup>(81)</sup> apply in connection with that person’s powers under those Regulations; or
- (g) for the purposes of research.
- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste deposited or stored at any one time does not exceed 10 tonnes; and
  - (b) the waste is not stored for longer than 12 months or such other period as may be ordered in court proceedings.

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<sup>(74)</sup> 1974 c. 40.

<sup>(75)</sup> 1989 c. 14; section 5 was amended by section 37 of the Clean Neighbourhoods and Environment Act 2005 (c. 16).

<sup>(76)</sup> 1991 c. 56.

<sup>(77)</sup> S.I. 2006/3289, amended by S.I. 2007/3545; there are other amending instruments but none is relevant.

<sup>(78)</sup> S.I. 2007/871, to which there are amendments not relevant to these Regulations.

<sup>(79)</sup> S.I. 2009/890.

<sup>(80)</sup> 1990 c. 43; section 34(1) was amended by S.I. 2000/1973 and 2007/3538. Section 34(1A) was inserted by paragraph 1(6) of Schedule 2 to S.I. 2009/1799.

<sup>(81)</sup> S.I. 2007/1711, to which there are amendments not relevant to these Regulations.

### Disposal by incineration (D6)

6.—(1) The disposal by incineration of the waste described in sub-paragraph (2) in an incinerator where the requirements in sub-paragraph (4) are met.

(2) The waste described in this paragraph is the waste mentioned in Article 2(2)(a)(i) to (viii) of the Waste Incineration Directive, but excluding the waste mentioned in sub-paragraph (vi) (radioactive waste) of that Article.

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste stored prior to incineration does not exceed 5 tonnes at any one time; and
- (b) the operation is carried on by the person who produced the waste.

(4) The requirements in this sub-paragraph are—

- (a) the incinerator has a capacity of less than 50kg per hour and a net rated thermal input of less than 0.4 megawatts; and
- (b) where it is used together with other incinerators (whether or not it is operated simultaneously with such other incinerators), the aggregate net rated thermal input of all the incinerators is less than 0.4 megawatts.

### Burning waste in the open (D7)

7.—(1) The burning of relevant waste on open land.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 020107, 200201	Plant tissue
030105	Sawdust, shavings and cuttings from untreated wood only
030301	Waste bark and wood

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste burned over any period of 24 hours does not exceed 10 tonnes;
- (b) the total quantity of waste stored at any one time does not exceed 20 tonnes; and
- (c) no waste is stored for longer than 6 months.

### Burning waste at a port under a Plant Health notice (D8)

8.—(1) The burning of relevant waste at a port.

(2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
020103, 020107, 020304, 200201	Plant tissue only
150103, 200138	Wood used to wedge or support parts of cargo, including packing material, spacers and pallets only

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste burned or stored over any period of 24 hours does not exceed 10 tonnes;
  - (b) the burning and storage of waste takes place in a secure place at the port where the waste was unloaded; and
  - (c) the burning is required under a Plant Health notice.
- (4) In this paragraph, “port” means a port appointed by order made under section 19 of the Customs and Excise Management Act 1979(82).

## CHAPTER 5

### Storage of waste other than at the place of production pending its recovery or reuse SECTION 1

#### *Introductory*

1. The descriptions in this Chapter are set out in the first sub-paragraph of paragraphs S1 to S3.
2. The specific conditions for each of the descriptions in this Chapter are set out in the third sub-paragraph of paragraphs S1 to S3.
3. The general conditions for all descriptions in this Chapter are that the storage is carried on—
  - (a) at a place other than the place of production, and
  - (b) pending the recovery of the waste.

### SECTION 2

#### *Descriptions and specific conditions*

#### **Storage of waste in secure containers (S1)**

1.—(1) The storage of relevant waste at a place in a secure container or containers for the purposes of its recovery elsewhere.

(2) The table specifying relevant waste for the purposes of this paragraph and the storage limits referred to in sub-paragraph (3) is set out below.

<i>Codes</i>	<i>Waste types</i>	<i>Storage limit (at any one time)</i>
130109* to 130113* 130204* to 130208* 130401* to 130403* 130701*	Waste oils	400 cubic metres
150101, 200101	Cartons	400 cubic metres
150102, 200139	Plastics and plastic packaging	400 cubic metres
150104, 200140	Cans and foil only	400 cubic metres
150101, 200101	Paper and cardboard	400 cubic metres

(82) 1979 c. 2.

150107, 200102	Glass	400 cubic metres
150109, 200110, 200111	Textiles and clothes	400 cubic metres
150202*	Absorbents, filter materials (including oil filters not otherwise specified) wiping cloths, protective clothing contaminated by dangerous substances	3 cubic metres
150203	Absorbents, filter materials, wiping cloths and protective clothing other than those mentioned in 150202	3 cubic metres
160107*	Oil filters	3 cubic metres

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste stored at any one time does not exceed the limit specified in the third column in the table in sub-paragraph (2);
- (b) the total quantity of storage containers at the storage place at any one time does not exceed 20;
- (c) no waste is stored for longer than 12 months;
- (d) the person storing the waste is the owner of the container or containers or has the consent of the owner; and
- (e) in respect of any waste oils and waste to which code 160107\* applies (oil filters), the waste is stored with secondary containment.

### Storage of waste in a secure place (S2)

2.—(1) The storage of relevant waste in a secure place for the purposes of its recovery elsewhere.

(2) The table specifying relevant waste for the purposes of this paragraph and the quantity limits referred to in sub-paragraph (3) is set out below.

<i>Codes</i>	<i>Waste types</i>	<i>Storage limit (at any one time)</i>	<i>Period</i>	<i>Additional specific conditions</i>
161002	Aqueous paint related waste only	1,000 litres	6 months	A, C
160601*, 160602*, 160603*, 160604, 160605, 200133*, 200134	Batteries	10 tonnes	6 months	A, B
150104, 200140	Cans and foil only	500 tonnes	12 months	
140601*	CFCs, HCFCs and HFCs	18 tonnes	6 months	A, C
170101, 170102, 170103, 170107,	Construction and demolition waste capable of being used in its existing state (non hazardous) only	100 tonnes	12 months	

170202, 170203, 170401 to 170407, 170504, 170604, 170802				
200125	Edible oil and fat only	5,000 tonnes	12 months	A, C
100207*	Electric arc furnace dust only	2,500 tonnes	3 months	D, E, F
020104	Farm plastics (non packaging) only	500 tonnes	12 months	D
070213, 150101, 150102, 150105, 200139	Food and drink cartons only	500 tonnes	12 months	
101112, 150107, 160120, 170202, 191205, 200102	Glass	5,000 tonnes	12 months	B
020102	Mammalian protein only	60,000 tonnes	12 months	D
020202	Mammalian tallow only	45,000 tonnes	12 months	D
200307	Mattresses only	5 tonnes	3 months	D
010408, 191209	Marble chips only	5,000 tonnes	12 months	
020304	Olive pulp/pellet only	5,000 tonnes	3 months	B, C, E
200127*, 200128, 080111*, 080112	Paints (excluding specialist and industrial paints, wood preservatives, aerosol and spray paints, inks, adhesives and resins) pending reuse as paints only	10,000 litres	6 months	A, C
150101, 191201, 200101, 030308, 030307	Paper and cardboard (excluding food and drink cartons) only	15,000 tonnes	12 months	J, K
090107, 090108	Photographic films and papers	50 tonnes	12 months	J
070213, 120105, 150102, 160119, 191204, 200139	Plastic	500 tonnes	12 months	
100101	Poultry litter ash only	3,000 tonnes	12 months	D, E
080318, 150102, 160216, 200139	Printer cartridges only	5,000 units	6 months	D
170301*, 170302, 170504	Road planings, waste road chippings, road sub-base only	500 tonnes	12 months	
020110, 160117, 160118, 191203, 170401, 170402, 170403, 170404, 170405,	Scrap metal	15,000 tonnes	6 months	B, E

170406, 191202, 170411	170407,				
090110, 090112	090111*,	Single use cameras	400 cubic metres	6 months	
020401, 020399		Soils from cleaning fruit and vegetables only	100 tonnes	6 months	
100316, 100504, 100511, 100604, 100811, 100899	100405*,	Solder metal, skimmings, ashes and residues	100 tonnes	3 months	G
140602*, 200113*	140603*,	Solvents and solvent mixtures	5 cubic metres	6 months	A, C
100101, 100105, 100115	100102,	Synthetic gypsum and pulverised fuel ash only	2,500 tonnes	3 months	D, E, F
040222, 191208, 200110, 200111	150109,	Textiles and clothes	1,000 tonnes	12 months	
160103, 191204		Tyres, tyre chip and crumb	40 tonnes	3 months	H
110113*, 160708*	120301*,	Waste cleaning solution containing 2% sodium metasilicate and 1-2% waste oil only	3 tonnes	3 months	A, C
160211*,160213*, 160214, 160216, 200121*, 200123*, 200135*, 200136		WEEE	400 cubic metres	6 months	I
030301, 150102, 150103, 200138		Wine bottle corks only	500 tonnes	12 months	
030105, 170204*,191206*, 191207, 200137*, 200138	170201,	Wood including telegraph poles and railway sleepers (hazardous and non hazardous)	100 tonnes	12 months	

(3) For the purposes of this paragraph, the specific conditions are that—

- (a) the total quantity of waste stored at any one time does not exceed the limit specified in the third column of the table in sub-paragraph (2);
- (b) no waste is stored for longer than the period specified in the fourth column of the table;
- (c) each type of waste is stored separately; and
- (d) the operation complies with such of the following additional conditions as are specified in the fifth column of the table—

- 
- A the waste is stored in a container,
- B the storage place has sealed drainage,
- C the waste is stored with secondary containment,

- D the waste is stored indoors,
  - E the waste is stored at a dock prior to being exported or after being imported,
  - F the waste must arrive at the storage place in bags and must be stored there in bags or in drums,
  - G the waste is stored in bags or in drums,
  - H the total quantity of waste stored together does not exceed 10 tonnes,
  - I the requirements in paragraph 1 of Annex III to the WEEE Directive must be complied with,
  - J the waste is stored in a baled form, in a container or indoors,
  - K within the quantity limit specified in the third column of the table and notwithstanding additional specific condition J, up to 1,000 tonnes may be stored outdoors so long as it is stored in an enclosure designed and maintained to prevent the escape of litter.
- 

### Storage of sludge (S3)

- 3.—(1) The storage of relevant waste.
- (2) The table specifying relevant waste for the purposes of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
190805	Residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters only
200304	Residual sludge from septic tanks and other similar installations for the treatment of sewage only

- (3) For the purposes of this paragraph, the specific conditions are that—
- (a) the total quantity of waste stored at any one time does not exceed 1,250 tonnes;
  - (b) no waste is stored for longer than 12 months;
  - (c) the waste is stored in a secure location at the place where it is to be used;
  - (d) the waste is stored at least—
    - (i) 10 metres from any watercourse,
    - (ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes,
    - (iii) 250 metres from any borehole used to supply water for domestic or food production purposes;
  - (e) no waste is stored—
    - (i) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction that is used to supply water for domestic or food production purposes,
    - (ii) within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon; and
  - (f) after storage, the waste is to be used in accordance with the Sludge (Use in Agriculture) Regulations 1989(83).

## PART 2

### Exempt water discharge activities: descriptions and conditions

#### Vegetation management activities

1.—(1) For the purpose of paragraph 4(a)(i) of Schedule 2, the description is cutting or uprooting a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them and failure to take reasonable steps to remove the vegetation from these waters.

(2) For the purpose of paragraph 4(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are—

- (a) that vegetation removed from the waters must be deposited in accordance with guidance issued by the appropriate authority; and
- (b) that where it is necessary to allow vegetation to pass downstream—
  - (i) prior notice of the dates of the water discharge activity is given, in accordance with guidance issued by the appropriate authority, to persons likely to be affected by such an activity, and
  - (ii) the activity is not carried on if there is insufficient flow to convey the vegetation.

#### Small discharges of sewage effluent

2.—(1) For the purpose of paragraph 4(a)(i) of Schedule 2, the description is the discharge from a sewage treatment plant of 5 cubic metres per day or less of sewage effluent into inland freshwaters, coastal waters or relevant territorial waters.

(2) For the purpose of paragraph 4(a)(ii) of that Schedule, the conditions in relation to a water discharge activity described in sub-paragraph (1) are—

- (a) that all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in guidance issued by the appropriate authority in relation to—
  - (i) design and manufacturing standards,
  - (ii) construction, installation and operation specifications, and
  - (iii) siting and installation;
- (b) that the discharge cannot reasonably, at the time it is first made, be made to the foul sewer;
- (c) that the discharge does not contain trade effluent;
- (d) that all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;
- (e) that records of maintenance work are kept by the person who is the occupier of the land on which the discharge is made ("the occupier") for at least 5 years after the work is carried out;
- (f) that the occupier must notify the exemption registration authority if an exempt water discharge activity ceases to be in operation;
- (g) that the occupier must ensure that all works and equipment used for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering inland freshwaters or coastal waters;

- (h) that, before an occupier ceases to be in occupation of land on which an exempt water discharge activity is carried on, the occupier must give to the person who will next be in occupation of the land a written notice—
- (i) stating that an exempt water discharge activity is being carried on on the land;
  - (ii) containing a description of the exempt facility;
  - (iii) stating the conditions that must be satisfied in relation to the exempt facility; and
  - (iv) accompanied by any records of maintenance mentioned in paragraph (e).

## PART 3

### Exempt groundwater activities: descriptions and conditions

#### Interpretation of Part 3

1. In this Part—

“groundwater tracer test” means a study of—

- (a) the behaviour or movement of water, or
- (b) a contaminant below ground,

which involves the addition to groundwater of a distinguishable material which has nearly identical properties to the contaminant or water being studied;

“small quantity of substance” is to be construed in accordance with the final paragraph of Article 11(3)(j) of the Water Framework Directive;

“specified groundwater remediation scheme” means a remediation scheme which involves the addition of a substance or preparation to groundwater which enhances the rate of remediation of groundwater contaminants;

“water features” includes boreholes, wells, adits, springs, seepage and wetland areas, ponds, lakes and watercourses; and

“water features survey” means a survey of all water features within 1 kilometre of the proposed activity that may be affected by it.

#### Discharge of small quantities of substances for scientific purposes

2.—(1) For the purpose of paragraph 5(a)(i) of Schedule 2, the description is the discharge of small quantities of substances for scientific purposes as part of—

- (a) a specified groundwater remediation scheme; or
- (b) a groundwater tracer test.

(2) For the purpose of paragraph 5(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

- (a) that a water features survey has demonstrated that the discharge will not cause pollution;
- (b) that the prior consent of every person having a right to abstract water in the vicinity of the discharge has been obtained;
- (c) that the exemption registration authority is notified before the commencement of the discharge;
- (d) that in the case of discharges as part of a specified groundwater remediation scheme, monitoring of the discharge, to determine whether pollution has been caused, is undertaken.

### **Small discharges of sewage effluent**

3.—(1) For the purpose of paragraph 5(a)(i) of Schedule 2, the description is a discharge from a septic tank or sewage treatment plant of 2 cubic metres per day or less of sewage effluent that results in the input of pollutants to groundwater.

(2) For the purpose of paragraph 5(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

- (a) that all works and equipment used for the treatment of sewage effluent and its discharge comply with the requirements specified in guidance issued by the appropriate authority in relation to—
  - (i) design and manufacturing standards,
  - (ii) construction, installation and operation specifications, and
  - (iii) siting and installation of infiltration systems;
- (b) that the discharge cannot reasonably, at the time it is first made, be made to the foul sewer;
- (c) that the discharge does not contain trade effluent;
- (d) that the discharge does not result in an input of pollutants to groundwater—
  - (i) within 50 metres of a point at which water is abstracted from underground strata, or
  - (ii) within a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;
- (e) that all works and equipment used for the treatment of sewage effluent and its discharge are maintained in accordance with the manufacturer's specification;
- (f) that records of maintenance work are kept by the person who is the occupier of the land on which the discharge is made ("the occupier") for at least 5 years after the work is carried out;
- (g) that the occupier must notify the exemption registration authority if an exempt groundwater activity ceases to be in operation;
- (h) that the occupier must ensure that all works and equipment for the treatment of sewage effluent and its discharge are appropriately decommissioned when the exempt facility ceases to be in operation so that there is no risk of pollutants entering groundwater;
- (i) that before an occupier ceases to be in occupation of land on which an exempt groundwater activity is carried on, the occupier must give to the person who will next be in occupation of the land a written notice—
  - (i) stating that an exempt groundwater activity is being carried on on the land;
  - (ii) containing a description of the exempt facility;
  - (iii) stating the conditions that must be satisfied in relation to the exempt facility; and
  - (iv) accompanied by any records of maintenance mentioned in paragraph (f).

## SCHEDULE 4

Regulation 11

### Application to the Crown

#### **Crown application**

1. Subject to paragraphs 2 to 5, these Regulations bind the Crown.

### **Contravention of these Regulations by the Crown**

- 2.—(1) If the Crown contravenes a provision of these Regulations—
- (a) it is not criminally liable under regulation 38; and
  - (b) no proceedings may be taken against it under regulation 42.
- (2) But—
- (a) on the application of a regulator, the High Court may declare a contravention of these Regulations by the Crown to be unlawful; and
  - (b) these Regulations apply to persons in the public service of the Crown as they apply to other persons.

### **Entry to Crown premises**

- 3.—(1) If the appropriate authority considers that in the interests of national security particular powers of entry must not be used in relation to particular Crown premises it may certify that those powers must not be used in relation to those premises.
- (2) In this paragraph—
- “Crown premises” means premises held or used by or on behalf of the Crown; and
  - “power of entry” means a power of entry exercisable under section 108 of the 1995 Act<sup>(84)</sup>, in relation to a function under these Regulations.

### **Service on certain Crown operators**

- 4.—(1) This paragraph applies in relation to a regulated facility controlled or operated by a person acting on behalf of—
- (a) the Royal Household;
  - (b) the Duchy of Lancaster; or
  - (c) the Duke of Cornwall or other possessor of the Duchy of Cornwall.
- (2) When serving or giving notices or notifications, or instituting proceedings, the following person must be treated as the operator—
- (a) in relation to sub-paragraph (1)(a), the Keeper of the Privy Purse;
  - (b) in relation to sub-paragraph (1)(b), the person appointed by the Chancellor of the Duchy of Lancaster;
  - (c) in relation to sub-paragraph (1)(c), the person appointed by the Duke of Cornwall or other possessor of the Duchy of Cornwall.

### **Application of this Schedule to certain radioactive substances activities**

- 5.—(1) These Regulations do not bind the Crown in relation to a radioactive substances activity carried on at premises—
- (a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence; or
  - (b) occupied by or for the purposes of visiting forces.

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<sup>(84)</sup> 1995 c. 25. Section 108 was amended by the [Pollution Prevention and Control Act 1999](#), c. 24, section 6(2) and Schedule 3; [S.I. 2000/1973](#), the [Anti-social Behaviour Act 2003](#), c. 38, section 55(6) and (8); and the [Clean Neighbourhoods and Environment Act 2005](#), c. 16, section 53.

(2) In this paragraph, “visiting force” has the meaning given in section 12(1) of the Visiting Forces Act 1952<sup>(85)</sup>.

## SCHEDULE 5

Regulations 13(3) and 15(3)

### Environmental permits

## PART 1

### Grant, variation, transfer and surrender of environmental permits

#### Interpretation

1.—(1) In this Part—

“applicant” means—

- (a) in the case of an application for the transfer of an environmental permit in whole or in part, the operator and the proposed transferee,
- (b) in every other case, the operator;

“application” means an application—

- (a) for the grant of an environmental permit under regulation 13(1),
- (b) by an operator for the variation of an environmental permit under regulation 20(1),
- (c) for the transfer, in whole or in part, of an environmental permit under regulation 21(1), or
- (d) for the surrender, in whole or in part, of an environmental permit under regulation 25(2); and

“public consultee” means a person whom the regulator considers is affected by, is likely to be affected by, or has an interest in, an application.

#### Making an application

2.—(1) An application must—

- (a) be made by the applicant on the form provided by the regulator; and
- (b) include the information specified on the form.

(2) Every application must be accompanied by any fee prescribed in a charging scheme made by the regulator under section 41 of the 1995 Act<sup>(86)</sup> or by the appropriate authority under regulation 65.

#### Withdrawing an application

3.—(1) A duly-made application may be withdrawn by the applicant before it is determined.

(2) If an application is withdrawn the applicant is not entitled to the return of any fee which accompanied it.

<sup>(85)</sup> 1952 c. 67. Section 12 was amended by the Criminal Justice Act 1988 (c. 33), section 170(1) and Schedule 15, paragraph 14.

<sup>(86)</sup> Section 41 was amended by S.I. 2005/894, 2005/1806 (W. 138), 2006/937 and 2007/1711.

### **Further information in respect of a duly-made application**

4.—(1) If the regulator considers that it requires further information to determine a duly-made application, it may serve a notice on the applicant specifying the further information and the period within which it must be provided.

(2) If the applicant fails to provide the further information in accordance with the notice, the regulator may serve a further notice on the applicant stating that the application is deemed to be withdrawn, upon which the application is deemed to be withdrawn.

(3) If an application is deemed to be withdrawn, the applicant is not entitled to the return of any fee which accompanied it.

### **Public participation: scope**

5.—(1) Paragraph 6 applies to every application for the grant of an environmental permit except an application in relation to—

- (a) mobile plant;
- (b) a radioactive substances activity described in paragraph 5(5) of Part 2 of Schedule 23;
- (c) a standard facility, unless the facility is a Part A installation; or
- (d) a mining waste operation not involving a mining waste facility to which Article 7 of the Mining Waste Directive applies.

(2) Paragraph 6 applies to every application for the variation of an environmental permit if—

- (a) it would entail a substantial change; or
- (b) the regulator determines that the paragraph should apply.

(3) Paragraph 8 applies to every regulator-initiated variation if—

- (a) it would entail a substantial change; or
- (b) the regulator determines that the paragraph should apply.

(4) But paragraphs 6 and 8 do not apply to the extent that the application or regulator-initiated variation relates to—

- (a) the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts;
- (b) dry cleaning;
- (c) the unloading of petrol into stationary storage tanks at a service station if it is an activity within paragraph (c) of Part B of Section 1.2 of Part 2 of Schedule 1; or
- (d) any motor vehicle refuelling activity within paragraph (d) or (e) of Part B of Section 1.2 of Part 2 of Schedule 1.

(5) In this paragraph—

“change in operation” means a change in the nature or functioning, or an extension, of an installation, which may have consequences for the environment;

“co-incineration plant” has the meaning given in Section 5.1 of Part 2 of Schedule 1;

“dry cleaning” has the meaning given in Part B of Section 7 of Part 2 of Schedule 1;

“incineration plant” has the meaning given in Section 5.1 of Part 2 of Schedule 1; and

“substantial change” means a change in operation of an installation which in the regulator’s opinion may have significant negative effects on human beings or the environment and includes—

- (a) in relation to a Part A installation, a change in operation which in itself meets the thresholds, if any, set out in Part 2 of Schedule 1, and
  - (b) in relation to an incineration plant or co-incineration plant for non-hazardous waste, a change in operation which would involve the incineration or co-incineration of hazardous waste.
- (6) When assessing whether a change in operation of a Part B installation has significant effects on the environment, the regulator must consider only its emissions to air.

### **Public participation in relation to certain applications**

6.—(1) Subject to sub-paragraphs (2) and (3), if this paragraph applies the regulator must, within the consultation communication period—

- (a) take the steps it considers appropriate to inform the public consultees of the application and the place and times its public register can be inspected free of charge;
- (b) invite the public consultees to make representations on the application; and
- (c) specify to the public consultees the address to which and the period within which representations are to be made.

(2) The regulator must not inform the public consultees of information which is to be excluded from a public register in the interests of national security unless the appropriate authority directs that it must do so.

(3) The regulator must not inform the public consultees of information which is to be excluded from a public register because it is confidential information, unless the public consultee is—

- (a) a public authority and the information is necessary for the exercise of its functions; or
- (b) a sewerage undertaker and the information relates to the release of any substance into a sewer vested in that undertaker.

### **Calculation of the consultation communication period**

7.—(1) In paragraph 6, “the consultation communication period” means a period of 30 working days starting on the day the regulator receives a duly-made application.

(2) But if—

- (a) a determination in relation to national security or confidentiality is to be made under regulation 47 or 50; or
- (b) the regulator gives notice under regulation 49(1) that it considers information in an application may be confidential information,

“the consultation communication period” means a period of 30 working days starting on the determination date or on the day the applicant gives notice of consent under regulation 49(2), as the case may be.

(3) In sub-paragraph (2), “determination date” means—

- (a) the date of a determination under regulation 47(3) or (7);
- (b) if the regulator determines under regulation 50 that the information must be excluded from the public register, the date of the determination; or
- (c) if the regulator determines otherwise under that regulation—
  - (i) if an appeal is brought, the date of determination or withdrawal of that appeal, or
  - (ii) if no appeal is brought, the date on which the period for bringing an appeal expires.

### **Public participation in relation to regulator-initiated variations**

- 8.—(1) If this paragraph applies, the regulator must notify the operator—
- (a) that the public participation procedures in sub-paragraph (2) apply;
  - (b) of the variation it proposes to the environmental permit; and
  - (c) of any fee prescribed in respect of this paragraph in a charging scheme made by the regulator under section 41 of the 1995 Act or by the appropriate authority under regulation 65.
- (2) The regulator must—
- (a) take the steps it considers appropriate to inform the public consultees of the proposed variation;
  - (b) invite the operator and the public consultees to make representations on the proposed variation; and
  - (c) specify to the operator and the public consultees the address to which and the period within which representations are to be made.

### **Consultation: conditions mentioned in regulation 15(1)**

9.—(1) This paragraph applies if the regulator proposes to include a condition mentioned in regulation 15(1) in an environmental permit.

(2) If this paragraph applies, the regulator must serve a notice which complies with sub-paragraph (3) on every person appearing to it to fall within sub-paragraph (4).

- (3) The notice must specify—
- (a) the proposed condition;
  - (b) the works or other things which the condition would require; and
  - (c) the address to which and the period within which representations on the proposed condition are to be made (which period must not expire less than 20 working days after the day the notice is served).
- (4) A person falls within this sub-paragraph if—
- (a) the person is the owner, lessee or occupier of land; and
  - (b) regulation 15(2) would require the person to grant the rights mentioned there if the proposed condition were included in the environmental permit.
- (5) In sub-paragraph (4)(a), “owner” means the person who—
- (a) is receiving the rack-rent of the land, whether on the person’s own account or as agent or trustee for another person; or
  - (b) would receive the rack-rent if the land were let at a rack-rent,

but does not include a mortgagee not in possession.

### **Consultation with other member States**

- 10.—(1) This paragraph applies if—
- (a) an appropriate authority is aware that the grant of a relevant application or regulator-initiated variation is likely to have significant negative effects on the environment of another member State; or
  - (b) another member State requests information about a relevant application or about a proposal for a regulator-initiated variation.

- (2) As soon as is reasonably practicable the appropriate authority must—
- (a) send the particulars of the relevant application or regulator-initiated variation to that member State to serve as the basis for bilateral consultations of the type referred to in the relevant Article;
  - (b) inform that member State of the relevant information; and
  - (c) notify the operator and the regulator that it has complied with paragraphs (b) and (c).
- (3) If a regulator receives notification under sub-paragraph (2)(c), it must not determine the application or make the regulator-initiated variation until the appropriate authority has—
- (a) notified it that the bilateral consultations have been completed; and
  - (b) sent it any representations made by the member State.
- (4) In this paragraph—
- “member State” includes Iceland, Liechtenstein and Norway but only to the extent that there is a relevant application or regulator-initiated variation which relates to the carrying on at an installation of an activity listed in the IPPC Directive;
- “relevant application” means an application for the grant or variation of an environmental permit in relation to an installation described in sub-paragraph (5) or a Category A mining waste facility;
- “relevant Article” means—
- (a) in the case of an application in relation to an installation described in sub-paragraph (5), Article 18 of the IPPC Directive,
  - (b) in the case of an application in relation to a Category A mining waste facility, Article 16 of the Mining Waste Directive; and
- “relevant information” means—
- (a) where the relevant application or regulator-initiated variation relates to an installation described in sub-paragraph (5), a matter in paragraph 1 of Annex V to the IPPC Directive,
  - (b) where it relates to a Category A mining waste facility, the information required under Article 16 of the Mining Waste Directive.
- (5) The description in this sub-paragraph is an installation where an activity listed in Annex 1 to the IPPC Directive is carried on.

#### **Duty to consider representations**

- 11.** Before it determines an application or makes a regulator-initiated variation, the regulator must consider any representation—
- (a) made pursuant to paragraph 6(1)(b), 8(2)(b) or 9(3)(c); or
  - (b) sent to it under paragraph 10(3)(b).

#### **Duty to determine an application**

- 12.**—(1) The regulator must grant or refuse a duly-made application.
- (2) Except in the case of an application for the surrender of an environmental permit in whole, the regulator may grant an application subject to such conditions as it sees fit.
- (3) But—
- (a) variations of an environmental permit in relation to the grant of an application for variation, transfer in whole or in part, or partial surrender must be in consequence of the variation, transfer or partial surrender, as the case may be; and

- (b) if granting an application for partial transfer, the regulator must grant a new environmental permit to the transferee subject to the same conditions as the original permit, varied in consequence of the partial transfer.

### **Identity and competence of the operator**

**13.**—(1) Subject to sub-paragraph (3), the regulator must refuse an application for the grant of an environmental permit or for the transfer in whole or in part of an environmental permit if it considers that, if the permit is granted or transferred, the requirements in sub-paragraph (2) will not be satisfied.

(2) The requirements are that the applicant for the grant of an environmental permit, or the proposed transferee, on the transfer of an environmental permit (in whole or in part), must—

- (a) be the operator of the regulated facility; and  
(b) operate the regulated facility in accordance with the environmental permit.

(3) The requirement in sub-paragraph (2)(b) does not apply to an applicant for the grant of an environmental permit authorising the carrying on of only a stand-alone water discharge activity or stand-alone groundwater activity.

### **Surrender applications**

**14.**—(1) The regulator must accept an application for the surrender of an environmental permit in whole or in part under regulation 25(2) if it is satisfied that the necessary measures have been taken—

- (a) to avoid a pollution risk resulting from the operation of the regulated facility; and  
(b) to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation.

(2) Sub-paragraph (1) does not apply to an application for the surrender of any part of an environmental permit (or if applicable, the whole permit) that authorises the carrying on of a radioactive substances activity at a nuclear site.

### **Time limits for determination**

**15.**—(1) If—

- (a) the regulator has not determined an application within the relevant period; and  
(b) the applicant serves a notice on the regulator which refers to this paragraph,

the application is deemed to have been refused on the day on which the notice is served.

(2) Sub-paragraph (1) does not apply—

- (a) to an application for the grant of an environmental permit that, if granted, would authorise the carrying on of a radioactive substances activity at a nuclear site; or  
(b) to an application for the transfer of an environmental permit where the permit authorises the carrying on of a radioactive substances activity at a nuclear site.

(3) In sub-paragraph (1) “the relevant period” means a period, calculated in accordance with paragraph 16, of—

- (a) in the case of an application for the transfer of an environmental permit in whole or in part, 2 months;  
(b) in a case where paragraph 6 applies, 4 months; or  
(c) in any other case, 3 months,

or in any case, a longer period than the period in paragraph (a), (b) or (c), if it is agreed by the regulator and the applicant.

### Calculation of the relevant period

- 16.—(1) This paragraph provides for the calculation of a period referred to in paragraph 15(3).
- (2) The period starts—
- (a) in the case of an application for the grant or variation of an environmental permit in relation to a Category A mining waste facility—
    - (i) on the day the regulator is notified by the relevant emergency planner of the matters referred to in paragraph 14(1) of Schedule 20, and for these purposes “relevant emergency planner” has the meaning given in paragraph 2 of that Schedule, or
    - (ii) if paragraph 10 of this Schedule applies, on the day mentioned in sub-paragraph (i) of this paragraph or, if the day on which the appropriate authority complies with paragraph 10(3) of this Schedule is later, on that day;
  - (b) if paragraph 10 of this Schedule applies and the application is not one covered by paragraph (a), on the day the appropriate authority complies with paragraph 10(3) of this Schedule;
  - (c) in all other cases, on the day the regulator receives a duly-made application.
- (3) In calculating the period the following periods must be ignored—
- (a) a period beginning with the service of a notice requiring further information under paragraph 4(1) to the receipt by the regulator of that information;
  - (b) a period for representations mentioned in paragraph 9(3)(c) to the extent that it does not overlap with a period for representations mentioned in paragraph 6(1)(c);
  - (c) a period during which national security or confidentiality is being considered in relation to the application, that is to say—
    - (i) any period during which a determination under regulation 47(3), 47(7) or 50 is being considered (including any appeal), or
    - (ii) a period of 15 working days after the service of a notice under regulation 49(1);
  - (d) if the regulator informs the public in relation to a draft decision in accordance with paragraph 1(d) of Annex V to the IPPC Directive, a period of 20 working days.

### Notification of a determination or decision

- 17.—(1) As soon as is reasonably practicable after it determines an application or decides to make a regulator-initiated variation, the regulator must comply with sub-paragraph (2).
- (2) The regulator must—
- (a) notify the applicant or, for a regulator-initiated variation, the operator of—
    - (i) its determination or decision,
    - (ii) the rights of appeal the applicant or operator has under regulation 31, and
    - (iii) the requirements relating to the exercise of those rights in paragraphs 2 and 3 of Schedule 6; and
  - (b) if paragraph 10 applies, notify the appropriate authority of the determination or decision.
- (3) In this paragraph, “determination” and “decision” include the reasons for the determination or decision.

### Date of effect of certain determinations and decisions

- 18.—(1) This paragraph applies to—
- (a) a determination by which the regulator grants an application which—

- (i) varies an environmental permit in consequence of an application for variation, transfer in whole or in part, or partial surrender, or
  - (ii) grants a new environmental permit in consequence of an application for partial transfer; and
- (b) a decision to make a regulator-initiated variation.
- (2) The determination or decision must specify any variation and the date it is to take effect.
- (3) If the regulator grants an application for the transfer of an environmental permit in whole or in part, the determination must specify the date agreed between the regulator and the applicant that the transfer is to take effect.

#### **Form of certain determinations and decisions: consolidation of permits**

- 19.**—(1) This paragraph applies to every determination and decision to which paragraph 18 applies.
- (2) A determination or decision may comprise—
- (a) a consolidated permit reflecting the variations; and
  - (b) a notice specifying the variations included in that consolidated permit.
- (3) Only the variations specified are subject to the right of appeal in regulation 31(2)(b) or (c).

## **PART 2**

### Compensation in relation to conditions affecting certain interests in land

#### **Interpretation**

- 1.** In this Part—
- “grantor” means a person who grants the operator rights pursuant to regulation 15(2);
- “relevant interest” means an interest in land out of which rights have been granted pursuant to regulation 15(2); and
- “rights” means the rights granted by the grantor.

#### **Entitlement to compensation**

- 2.** A grantor is entitled to be paid compensation under this Part by the operator.

#### **Loss and damage for which compensation is payable**

- 3.**—(1) Subject to paragraph 6(3) and (5)(b), compensation is payable for loss and damage of the following descriptions—
- (a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights;
  - (b) depreciation in the value of any other interest in land to which the grantor is entitled which results from the exercise of the rights;
  - (c) loss or damage, in relation to any relevant interest to which the grantor is entitled, which—
    - (i) is attributable to the grant of the rights or the exercise of them,
    - (ii) does not consist of depreciation in the value of that interest, and

- (iii) is loss or damage for which the grantor would have been entitled to compensation by way of compensation for disturbance if the circumstances specified in sub-paragraph (2) applied;
  - (d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which—
    - (i) is not a relevant interest, and
    - (ii) results from the grant of the rights or the exercise of them;
  - (e) loss in respect of work carried out by or on behalf of the grantor which is rendered abortive by the grant of the rights or the exercise of them.
- (2) For the purpose of sub-paragraph (1)(c)(iii), the circumstances are that the relevant interest was acquired compulsorily—
- (a) under the Acquisition of Land Act 1981(87); and
  - (b) in pursuance of a notice to treat served on the date on which the rights were granted.

#### **Date when entitlement to compensation arises**

- 4.—(1) An entitlement to compensation under this Part arises on the date of the grant of the rights.
- (2) But if an appeal against the conditions of the environmental permit which rendered the grant of rights necessary is refused, the entitlement to compensation arises on the date the appeal is determined.

#### **Application for compensation**

- 5.—(1) An application for compensation under this Part must be made by the grantor—
- (a) within 12 months after the date on which the entitlement to compensation arises; or
  - (b) within 6 months after the date on which the rights are first exercised.
- (2) An application must be—
- (a) made in writing;
  - (b) made to the operator to whom the rights were granted; and
  - (c) delivered at or sent by pre-paid post to the last known address for correspondence of that operator.
- (3) The application must contain, or be accompanied by—
- (a) a copy of the grant of rights in respect of which the grantor's entitlement arises and any plans attached to that grant;
  - (b) a description of the exact nature of any interest in land in respect of which compensation is applied for;
  - (c) a statement of the amount of compensation applied for—
    - (i) distinguishing the amounts applied for under each of paragraphs 3(a) to (e), and
    - (ii) showing how the amount applied for under each paragraph has been calculated; and
  - (d) if the date on which the entitlement to compensation arises is ascertained in accordance with paragraph 4(2), a copy of the notice of the final determination of the appeal.

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(87) 1981 c. 67.

### Assessment of the amount to be paid by way of compensation

6.—(1) The amount to be paid by way of compensation under this Part must be assessed in accordance with this paragraph.

(2) The rules set out in section 5 of the Land Compensation Act 1961<sup>(88)</sup> have effect for the purposes of this paragraph as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land, so far as applicable and subject to any necessary modifications.

(3) No account is to be taken of any enhancement of the value of an interest in land by reason of any building erected, work done, or improvement or alteration made on land in which the grantor is, or was at the time the building or other work was carried out, directly or indirectly concerned, if the work carried out—

- (a) was not reasonably necessary; and
- (b) was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of a loss under paragraph 3(e), expenditure incurred in the preparation of plans or on other similar preparatory matters is to be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a mortgage—

- (a) the compensation must be assessed as if the interest were not subject to the mortgage; and
- (b) no compensation is payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage).

(6) Compensation must include an amount equal to the grantor's reasonable valuation and legal expenses.

### Payment of compensation

7.—(1) Compensation in respect of an interest which is subject to a mortgage must be paid—

- (a) to the mortgagee; or
- (b) if there is more than one mortgagee, to the first mortgagee,

and must, in either case, be applied by the mortgagee as if it were proceeds of sale.

(2) Amounts of compensation determined under this Part are payable—

- (a) where the operator and either the grantor or mortgagee agree that a single payment is to be made on a specified date, on that date;
- (b) where the operator and either the grantor or mortgagee agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment;
- (c) in any other case, subject to any direction of the Upper Tribunal or the court, as soon as reasonably practicable after the amount of the compensation has been determined.

(3) Any question of the application of paragraph 6(3) or dispute as to the amount of compensation must be referred to and determined by the Upper Tribunal.

(4) In relation to the determination of such a question, section 4 of the Land Compensation Act 1961<sup>(89)</sup> applies as if the reference in section 2(1) of that Act to section 1 of that Act were a reference to sub-paragraph (3) of this paragraph.

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<sup>(88)</sup> 1961 c. 33. Section 5 was amended by the Planning and Compensation Act 1991 (c. 34), sections 70 and 84, and Schedules 15 and 19.

<sup>(89)</sup> Section 2 was amended by the Local Government, Planning and Land Act 1980 (c. 65), section 193 and Schedule 33.

### **Interest payable on compensation**

8.—(1) Compensation payable under this Part carries interest at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 from the date specified in sub-paragraph (2) to payment.

(2) The date is—

- (a) in the case of compensation payable under paragraph 3(a) or (b), the date of depreciation;
- (b) in the case of compensation payable under paragraph 3(c), (d) or (e), the date on which the loss is sustained, the damage is done, or the injurious affection occurs, as the case may be;
- (c) in the case of compensation payable under paragraph 6(6), the date on which the expenses become payable.

(3) If it appears to a person (“A”) that A may become liable to pay to another person (“B”) compensation under this Schedule or interest under this paragraph, on the written request of B, A may make one or more payments on account of such compensation or interest.

(4) A may recover the payment or excess if, after A makes a payment under sub-paragraph (3)—

- (a) it is agreed or determined that A is not liable to pay compensation or interest; or
- (b) by reason of any agreement or determination, the payment is shown to be excessive.

## SCHEDULE 6

Regulation 31(14)

### Appeals to the appropriate authority

#### **Interpretation**

1. In this Schedule—

“appeal” means an appeal to the appropriate authority;

“appointed person” means the person appointed under paragraph 5; and

“determination” includes the reasons for the determination.

#### **Making an appeal**

2.—(1) A person making an appeal must—

- (a) send the appropriate authority written notice of the appeal and the documents specified in sub-paragraph (2); and
- (b) at the same time send the regulator copies of the notice and documents.

(2) The documents are—

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant environmental permit;
- (d) a copy of any relevant correspondence between the appellant and the regulator;
- (e) a copy of any decision or notice which is the subject matter of the appeal; and
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be dealt with by way of written representations.

(3) An appellant may withdraw an appeal by notifying the appropriate authority in writing and must send a copy of that notification to the regulator.

### **Time limit for making an appeal**

3.—(1) A notice of appeal must be given—

- (a) in relation to an appeal against a revocation notice, before the revocation notice takes effect;
- (b) in relation to the withdrawal of a duly-made application under paragraph 4(2) of Part 1 of Schedule 5, not later than 15 working days after the date of the further notice served under that paragraph;
- (c) in relation to an enforcement notice, a regulator-initiated variation, suspension notice, mining waste facility closure notice or landfill closure notice, not later than 2 months after the date of the variation or notice;
- (d) in relation to a prohibition notice, not later than 21 days after the date of the notice; or
- (e) in any other case, not later than 6 months after the date of the decision or deemed decision.

(2) The appropriate authority may in a particular case allow notice of appeal to be given after the periods mentioned in sub-paragraph (1)(b) to (e) have expired.

### **Notice to affected and interested persons**

4.—(1) The regulator must, within 10 working days after receipt of a copy of a notice of appeal, give notice of it to any person whom the regulator considers is affected by, is likely to be affected by, or has an interest in, the subject matter of the appeal.

(2) A notice must include—

- (a) a description of the subject matter of the appeal; and
- (b) a statement that representations in writing may be made to the appropriate authority within a period of 15 working days after the date of the notice.

(3) The regulator must notify the appropriate authority of the persons to whom, and the date on which, such a notice was sent, within 10 working days after sending it.

(4) The regulator must give notice of the withdrawal of an appeal to every person given such a notice.

### **Hearing before an appointed person**

5.—(1) Before determining an appeal the appropriate authority may give the appellant and the regulator an opportunity of appearing before and being heard by a person appointed by the appropriate authority, and must do so in a case where a request is duly made by the appellant or the regulator to be so heard.

(2) If the appointed person so decides, a hearing may be held wholly or to any extent in private.

(3) The persons entitled to be heard at a hearing are—

- (a) the appellant;
- (b) the regulator; and
- (c) a person who has made representations to the regulator in respect of the subject matter of the appeal within the period mentioned in paragraph 4(2)(b).

(4) The appointed person may permit other persons to be heard and such permission must not be unreasonably withheld.

(5) After the hearing, the appointed person must make a report in writing to the appropriate authority which must include the appointed person's—

- (a) conclusions; and

(b) recommendations or reasons for not making recommendations.

(6) Subsections (2) to (5) of section 250 of the Local Government Act 1972<sup>(90)</sup> apply to hearings held under this paragraph by an appointed person as they apply to inquiries caused to be held under that section by a Minister with the following modifications—

- (a) the substitution in subsection (2) for the reference to the person appointed to hold the inquiry with a reference to the appointed person;
- (b) the substitution in subsection (4) for the references to the Minister causing the inquiry to be held with references to the appropriate authority;
- (c) the substitution of the reference in that subsection to a local authority with a reference to the regulator;
- (d) the substitution in subsection (5) for the reference to the Minister causing the inquiry to be held with a reference to the appropriate authority.

#### **Notice of determination of an appeal**

6.—(1) The appropriate authority must give notice to the appellant of its determination and provide the appellant with a copy of the report mentioned in paragraph 5(5).

- (2) At the same time the appropriate authority must send—
  - (a) a copy of the documents mentioned in sub-paragraph (1) to the regulator; and
  - (b) a copy of its determination to any person who made representations in respect of the subject matter of the appeal to the authority, or at any hearing.

#### **Procedure following the quashing of a determination of an appropriate authority**

- 7.—(1) If a determination is quashed in proceedings before a court, the appropriate authority—
  - (a) must send to the persons notified of its determination under paragraph 6 a statement of the matters in relation to which further representations are invited;
  - (b) must give those persons the opportunity of making written representations in respect of those matters within 20 working days after the date of the statement; and
  - (c) may cause a hearing to be held or reopened.

(2) If a hearing is held or reopened under sub-paragraph (1)(c), paragraphs 5(2) to 5(6) apply as they apply to a hearing held under paragraph 5(1).

(3) Paragraph 6 applies to the re-determination of an appeal as it applies to the determination of that appeal.

### SCHEDULE 7

Regulation 35(2)(a)

#### Part A installations and Part A mobile plant

#### **Application**

1. This Schedule applies in relation to every Part A installation or Part A mobile plant.

<sup>(90)</sup> 1972 c. 70. Section 250 was amended by the Criminal Justice Act 1982, c. 48, section 46; the Statute Law (Repeals) Act 1989, c. 43; and the Housing and Planning Act 1986, c. 63, section 49(2) and Schedule 12.

## Interpretation

2. When interpreting the IPPC Directive for the purposes of this Schedule—
- (a) except where otherwise defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
  - (b) “installation” means “Part A installation or Part A mobile plant”;
  - (c) “permit” means “environmental permit”;
  - (d) the competent authority is the regulator; and
  - (e) “substance” is to be read as including, after the words “its compounds” in Article 2(1) of the IPPC Directive, the words “and any biological entity or micro-organism”.

## Exercise of regulator’s functions: general

3. The regulator must exercise its functions under these Regulations for the purpose of achieving a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land.

## Applications for the grant of an environmental permit

4.—(1) The regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 6(1) of the IPPC Directive.

(2) But when interpreting Article 6(1), the regulator must ignore the fourth indent in the case of Part A mobile plant.

## Exercise of relevant functions

5.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the IPPC Directive—

- (a) Article 3, ignoring the words “provide that the competent authorities” contained in the first sentence of Article 3(1);
- (b) Article 9(1) to (6);
- (c) Article 10;
- (d) Article 12;
- (e) Article 14 point (b);
- (f) Article 19(2).

(2) But when interpreting the IPPC Directive for the purposes of this paragraph, the regulator must—

- (a) ignore the second and fourth paragraphs of Article 9(3);
- (b) in the case of Part A mobile plant, in Article 9(4), ignore the words “its geographical location and the local environmental conditions”;
- (c) ignore the second paragraph of Article 9(5);
- (d) ignore the second paragraph of Article 9(6); and
- (e) in the case of Part A mobile plant, ignore Article 12.

## Public participation

6. The regulator must exercise its functions under the public participation provisions in relation to Part A installations so as to meet the requirements of Article 15(1) of the IPPC Directive.

### **Review of environmental permits**

7. The regulator must review an environmental permit if any of the circumstances in Article 13(2) of the IPPC Directive apply in relation to the Part A installation or Part A mobile plant whose operation it authorises.

### **Developments in best available techniques**

8.—(1) The regulator must ensure that it is informed of developments in best available techniques.

(2) In this paragraph, “best available techniques” has the meaning given in Article 2(12) of the IPPC Directive.

## SCHEDULE 8

Regulation 35(2)(b)

### Part B installations and Part B mobile plant

#### **Application**

1. This Schedule applies in relation to every Part B installation and Part B mobile plant.

#### **Interpretation**

2. When interpreting the IPPC Directive for the purposes of this Schedule—

- (a) except where otherwise defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) “installation” means “Part B installation” or “Part B mobile plant”;
- (c) “permit” means “environmental permit”;
- (d) a reference to “emission limit values” is to be read as a reference to those values which are relevant to air pollution;
- (e) the competent authority is the regulator; and
- (f) “substance” is to be read as including, after the words “its compounds” in Article 2(1) of that Directive, the words “and any biological entity or micro-organism”.

#### **Exercise of regulator’s functions: general**

3. The regulator must exercise its functions under these Regulations for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

#### **Applications for the grant of an environmental permit**

4.—(1) The regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 6(1) of the IPPC Directive.

(2) But, when interpreting Article 6(1), the regulator must—

- (a) ignore points (b), (d) and (g);
- (b) ignore points (c) and (e) to the extent that the application relates to the carrying on of dry cleaning at a Part B installation;
- (c) in point (e), the reference to “each medium” is to be read as a reference to “air”;

- (d) ignore point (f) to the extent that the application relates to the burning of waste oil in an appliance with a net rated thermal input of less than 0.4 megawatts at a Part B installation;
- (e) in point (h), read the reference to “Article 3” as a reference to “Article 3(1)(a) and (1)(b)”.

(3) In this paragraph, “dry cleaning” has the meaning given in Part B of Section 7 of Part 2 of Schedule 1.

### **Exercise of relevant functions**

5.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the IPPC Directive—

- (a) Article 3(1)(a) and (b);
- (b) Article 9(1) to (4);
- (c) Article 10;
- (d) Article 12;
- (e) Article 19(2).

(2) But when interpreting the IPPC Directive for the purposes of this paragraph, the regulator must—

- (a) in Article 3(1), ignore the words “provide that the competent authorities”;
- (b) in Article 9(1) read—
  - (i) the reference to “Article 3” as a reference to “Article 3(1)(a) and (b)”, and
  - (ii) the words from “in order” to the end of the Article as “for the purpose of preventing or, where that is not practicable, reducing emissions into the air”;
- (c) in Article 9(3), ignore the words “and their potential to transfer pollution from one medium to another (water, air and land)”;
- (d) in Article 9(4)—
  - (i) in the case of Part B mobile plant, ignore the words “its geographical location and the local environmental conditions”, and
  - (ii) ignore the last sentence;
- (e) in the case of Part B mobile plant, ignore Article 12;
- (f) in Annex III, ignore the section headed “WATER”.

### **Review of environmental permits**

6. The regulator must review an environmental permit if any of the circumstances in Article 13(2) of the IPPC Directive apply in relation to the Part B installation or Part B mobile plant whose operation it authorises.

### **Developments in best available techniques**

7.—(1) The regulator must ensure that it is informed of developments in best available techniques.

(2) In this paragraph, “best available techniques” has the meaning given in Article 2(12) of the IPPC Directive, save that the reference to “Annex IV” in that Article is to be read as a reference to “paragraphs 4 to 8 of Annex IV”.

## SCHEDULE 9

Regulation 35(2)(c)

### Waste operations

#### Application

1. This Schedule applies in relation to every waste operation.

#### Interpretation

2. In this Schedule—
  - “disposal” has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly; and
  - “recovery” has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly.

#### Grant of an environmental permit for a relevant waste operation: requirement for prior planning permission

3.—(1) Following an application under regulation 13(1), the regulator must not grant an environmental permit that relates to a relevant waste operation if—

- (a) use of the site for carrying on the relevant waste operation requires planning permission or development consent under the Planning Act 2008<sup>(91)</sup>; and
- (b) no such permission or consent is in force.

(2) In this paragraph—

“planning permission” means planning permission under the Town and Country Planning Act 1990<sup>(92)</sup> and includes—

- (a) a certificate under section 191 of that Act<sup>(93)</sup>, and
- (b) an established use certificate under section 192 of that Act, as originally enacted, which continues to have effect for the purposes of subsection (4) of that section; and

“relevant waste operation” means—

- (a) a waste operation that is not carried on at an installation or by means of Part A mobile plant or Part B mobile plant, or
- (b) a specified waste management activity.

(3) In sub-paragraph (2)(b), “specified waste management activity” means one of the following activities—

- (a) the disposal of waste in a landfill falling within Section 5.2 of Part 2 of Schedule 1;
- (b) the disposal of waste falling within Section 5.3 of Part 2 of Schedule 1;
- (c) the recovery of waste falling within Part A(1)(c)(i), (ii), (v) or (vii) of Section 5.4 of Part 2 of Schedule 1.

(4) But “specified waste management activity” does not include any activity specified in sub-paragraph (3)(b) or (c) if that activity—

- (a) is carried on at the same installation as a Part A(1) activity not specified in sub-paragraph (3); and

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<sup>(91)</sup> 2008 c. 29.

<sup>(92)</sup> 1990 c. 8.

<sup>(93)</sup> Section 191 was substituted by the Planning and Compensation Act 1991 (c. 34), section 10(1).

- (b) is not the activity which constitutes the primary purpose for operating the installation.

**Exercise of relevant functions: all waste operations**

4. The regulator must exercise its relevant functions—
- (a) for the purposes of implementing Article 4 of the Waste Framework Directive; and
  - (b) so as to ensure that the records referred to in Article 14 of the Waste Framework Directive are kept and made available to the regulator on request.

**Exercise of relevant functions: disposal of waste**

- 5.—(1) The regulator must exercise its relevant functions in relation to the disposal of waste—
- (a) for the purposes of implementing Article 5 of the Waste Framework Directive, ignoring the words “in cooperation with other Member States where this is necessary or advisable”;
  - (b) for the purposes of implementing, so far as material, any waste management plan; and
  - (c) so as to ensure that the requirements in the second paragraph of Article 9(1) of the Waste Framework Directive are met.
- (2) In this paragraph, “waste management plan” has the meaning given in paragraph 1 of Part 1 of Schedule 25 (waste and extractive waste).

SCHEDULE 10

Regulation 35(2)(d)

Landfill

**Application**

1. This Schedule applies in relation to every landfill except a landfill which finally ceased to accept waste for disposal before 16th July 2001.

**Interpretation: general**

- 2.—(1) In this Schedule—
- (a) unless otherwise provided, an expression that is defined in the Landfill Directive has the meaning given in that Directive;
  - (b) “the Decision” means Council Decision [2003/33/EC\(94\)](#);
  - (c) “the Decision Annex” means the Annex to the Decision; and
  - (d) “landfill” has the meaning given in Article 2(g) of the Landfill Directive, but does not include any operation excluded from the scope of that Directive by Article 3(2).
- (2) When interpreting the Landfill Directive and the Decision for the purposes of this Schedule—
- (a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
  - (b) “landfill permit” means environmental permit;
  - (c) “nature protection zone” means any—

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(94) OJ No L 11, 16.1.2003, p 27.

- (i) site of special scientific interest within the meaning given in section 52 of the Wildlife and Countryside Act 1981<sup>(95)</sup>, or
- (ii) European site within the meaning given in regulation 10(1) of the Conservation (Natural Habitats, &c) Regulations 1994<sup>(96)</sup>;
- (d) “PAHs (polycyclic aromatic hydrocarbons)” means Naphthalene, Acenaphthylene, Acenaphthene, Anthracene, Benzo(a)anthracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(g,h,i)perylene, Benzo(a)pyrene, Chrysene, Coronene, Dibenzo(a,h)anthracene, Fluorene, Fluoranthene, Indeno(1,2,3-c,d)pyrene, Phenanthrene and Pyrene;
- (e) “permit” means environmental permit;
- (f) “SIC code” means the UK Standard Industrial Classification of Economic Activities 2007 (SIC 2007) published by the Office for National Statistics on 14th December 2007 and implemented on 1st January 2008<sup>(97)</sup>; and
- (g) the competent authority is the regulator.

#### **Applications for the grant of an environmental permit**

3. The regulator must require that every application for the grant of an environmental permit includes the information specified in Article 7 of the Landfill Directive.

#### **Inspection prior to operation**

4. The regulator must inspect every landfill site so as to comply with the requirements in Article 8(c) of the Landfill Directive.

#### **Exercise of relevant functions**

5.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Landfill Directive—

- (a) Article 4;
- (b) Article 5(3) and (4);
- (c) Article 6;
- (d) Article 8;
- (e) Article 9;
- (f) Article 10;
- (g) Article 11(1);
- (h) Article 12;
- (i) Article 13;
- (j) Article 14.

(2) The regulator must exercise those relevant functions having regard to Article 1 of the Landfill Directive.

(3) The regulator must exercise those relevant functions so as to ensure compliance with the requirements imposed on the Member State by the following provisions of the Decision—

- (a) Article 2;

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<sup>(95)</sup> 1981 c. 69; the definition was inserted by the Countryside and Rights of Way Act 2000, section 75(1) and Schedule 9.

<sup>(96)</sup> S.I. 1994/2716, amended by S.I. 2000/192. There are other amending instruments but none is relevant.

<sup>(97)</sup> ISBN: 0116216417.

- (b) Article 3;
- (c) Article 4.

#### **Interpretation of the Landfill Directive for the exercise of relevant functions**

6. When interpreting the Landfill Directive for the purposes of paragraph 5(1)—
- (a) in Article 6(a), the words “This provision may not apply to” is to be read as “This provision does not apply to”;
  - (b) in Article 8(a)(iv), ignore the last sentence;
  - (c) the last sentence of paragraph 2 of Annex I is to be read as “The above provisions do not apply to inert landfills.”; and
  - (d) in paragraph 3(3) of Annex I, ignore the sentence immediately following the table headed “Leachate collection and bottom sealing”.

#### **Interpretation of the Decision Annex for the exercise of relevant functions: general**

7. When interpreting the Decision Annex for the purposes of paragraph 5(3)—
- (a) in points 1.1.1 and 1.2, the periods referred to as to be defined or determined by the Member State are in each case 2 years;
  - (b) point 1.1.2(b) is to be read as requiring the SIC code of the process producing the waste to be part of the information referred to;
  - (c) in point 1.1.2(g), ignore the words “in case of mirror entries”;
  - (d) ignore the third sentence of section 2;
  - (e) in points 2.1.2.1, 2.2.2, 2.3.1 and 2.4.1 the table columns headed “L/S = 10 l/kg” must be used to determine limit values;
  - (f) in the table in point 2.1.2.2, the limit value for PAHs (polycyclic aromatic hydrocarbons) is set at 100 mg/kg;
  - (g) in point 2.2.3, the first reference to “gypsum-based materials” is to be read as “gypsum-based and other high sulphate-bearing materials”;
  - (h) in point 2.3.3, the first reference to “suitable asbestos waste” is to be read as “suitable materials”; and
  - (i) in the table in point 2.4.1, the limit values are subject to the qualification that the regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to 3 times higher than those listed for specified wastes accepted at a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

#### **Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria relating to physical stability and bearing capacity of granular waste**

8. When interpreting the Decision Annex for the purposes of paragraph 5(3)—
- (a) in point 2.3.2, the criteria to ensure that granular waste will have sufficient physical stability and bearing capacity are that it has either—
    - (i) if it is cohesive waste, a mean in situ shear strength of at least 50kPa, or
    - (ii) if it is non-cohesive waste, an in situ bearing ratio of at least 5%;

- (b) point 2.4.2 is to be read as if, in addition to the criteria listed, it requires the satisfaction of the criteria in paragraph (a)(i) and (a)(ii).

**Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria in relating to monolithic waste**

**9.** When interpreting the Decision Annex for the purposes of paragraph 5(3)—

- (a) point 2.3.1 is to be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to stable, non-reactive monolithic hazardous waste and non-hazardous waste which is to be landfilled in the same cell with such waste—

- (i) it meets either—

- (aa) the limit values for leaching set out in the table in point 2.3.1, or  
(bb) the limit values for leaching set out in the following table—

<i>Component</i>	<i>Symbol</i>	<i>mg/m<sup>2</sup></i>
Arsenic	As	1.3
Barium	Ba	45
Cadmium	Cd	0.2
Total Chromium	Cr <sub>total</sub>	5
Copper	Cu	45
Mercury	Hg	0.1
Molybdenum	Mo	7
Nickel	Ni	6
Lead	Pb	6
Antimony	Sb	0.3
Selenium	Se	0.4
Zinc	Zn	30
Chloride	Cl <sup>-</sup>	10,000
Fluoride	F <sup>-</sup>	60
Sulphate	SO <sub>4</sub> <sup>2-</sup>	10,000
Dissolved Organic Carbon	DOC	Must be evaluated

- (ii) it meets the additional criteria set out in the following table—

<i>Parameter</i>	<i>Value</i>
pH of the eluate from the monolith or crushed monolith	Must be evaluated
Electrical conductivity ( $\mu$ S.cm-1m-2) of the eluate from the monolith or crushed monolith	Must be evaluated
Acid Neutralisation Capacity (ANC) of the crushed monolith	Must be evaluated

- (iii) it has a mean unconfined compressive strength of at least 1Mpa after 28 days curing;
- (iv) it has either—
- (aa) dimensions of greater than 40cm along each side, or
  - (bb) a depth and fracture spacing when hardened of greater than 40cm; and
- (v) where the waste was subjected to treatment to render it monolithic, prior to such treatment it met the following limit values—
- (aa) loss on ignition of 10%, or
  - (bb) total organic carbon of 6%;
- (b) point 2.4.1 in the Decision Annex is to be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to monolithic waste to be accepted at a landfill for hazardous waste—
- (i) it complies with paragraphs (a)(ii) to (a)(v), and
  - (ii) it meets either—
    - (aa) the limit values for leaching set out in the table in point 2.4.1, or
    - (bb) the limit values for leaching set out in the following table—

<i>Components</i>	<i>Symbol</i>	<i>mg/m<sup>2</sup> <sup>(1)</sup></i>
Arsenic	As	20
Barium	Ba	150
Cadmium	Cd	1
Total Chromium	Cr <sub>total</sub>	25
Copper	Cu	60
Mercury	Hg	0.4
Molybdenum	Mo	20
Nickel	Ni	15
Lead	Pb	20
Antimony	Sb	2.5
Selenium	Se	5
Zinc	Zn	100
Chloride	Cl <sup>-</sup>	20,000
Fluoride	F <sup>-</sup>	200
Sulphate	SO <sub>4</sub> <sup>2-</sup>	20,000
Dissolved Organic Carbon	DOC	Must be evaluated

- (1) The regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to 3 times higher for specified wastes accepted in a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

### **Closure of a landfill**

**10.**—(1) The regulator must set out any reasoned decision under Article 13(a)(iii) of the Landfill Directive in a closure notice served on the operator.

(2) A closure notice must, in addition to stating the regulator’s reasons for requiring initiation of the closure procedure, specify—

- (a) the steps the operator is required to take to initiate the procedure; and
- (b) the period within which they must be taken.

(3) The regulator may withdraw a closure notice at any time by further notice served on the operator.

(4) Closure of a landfill does not relieve the operator of liability under the conditions of the environmental permit.

### **Surrender applications**

**11.** When determining an application for the surrender, in whole or in part, of an environmental permit, the regulator must exercise its functions so as to ensure the operator complies with the requirements in Article 13(d) of the Landfill Directive.

## SCHEDULE 11

Regulation

### Waste motor vehicles

#### **Application**

1. This Schedule applies in relation to waste motor vehicles.

#### **Interpretation**

**2.**—(1) In this Schedule—

“waste” means waste within the meaning of Article 1(1)(a) of the Waste Framework Directive; and

“waste motor vehicle” means a motor vehicle that is waste.

(2) When interpreting the End-of-Life Vehicles Directive for the purposes of this Schedule—

- (a) except where otherwise defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) “end-of-life vehicle” means waste motor vehicle;
- (c) “vehicle” means any motor vehicle;
- (d) “waste” means waste within the meaning of Article 1(1)(a) of the Waste Framework Directive.

#### **Exercise of relevant functions**

**3.**—(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 6(1) and (3) of the End-of-Life Vehicles Directive.

(2) When interpreting the End-of-Life Vehicles Directive for the purposes of this paragraph, “establishment or undertaking” is to be read as “operator”.

## SCHEDULE 12

Regulation

## Waste electrical and electronic equipment

**Application**

1. This Schedule applies in relation to waste electrical and electronic equipment which is within the scope of the WEEE Directive by virtue of Article 2 of that Directive.

**Interpretation**

2.—(1) In this Schedule, “waste electrical and electronic equipment” has the meaning given in Article 3(b) of the WEEE Directive.

(2) When interpreting the WEEE Directive for the purposes of this Schedule—

- (a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) “permit” means environmental permit; and
- (c) “waste” means waste within the meaning of Article 1(1)(a) of the Waste Framework Directive.

**Exercise of relevant functions**

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 6(1) first paragraph and Article 6(3) and (4) of the WEEE Directive.

(2) But when interpreting the WEEE Directive for the purposes of this paragraph, ignore the following words in Article 6(4)—

- (a) “or the registration referred to in paragraph 2”; and
- (b) “and for the achievement of the recovery targets set out in Article 7”.

## SCHEDULE 13

Regulation 35(2)(g)

## Waste incineration

**Application**

1. This Schedule applies in relation to every waste incineration installation.

**Interpretation**

2.—(1) In this Schedule, “waste incineration installation” means that part of an installation or Part A mobile plant in which any of the following activities is carried on—

- (a) the incineration of waste falling within the following provisions of Section 5.1 of Part 2 of Schedule 1—
    - (i) paragraphs (a) to (c) of Part A(1), or
    - (ii) paragraph (a) or (b) of Part A(2); or
  - (b) any other activity falling within Part 2 of Schedule 1 which is carried on in a co-incineration plant (as that term is defined in Section 5.1 of Part 2 of Schedule 1).
- (2) When interpreting the Waste Incineration Directive for the purposes of this Schedule—

- (a) an expression that is defined in Section 5.1 of Part 2 of Schedule 1 has the meaning given in that Section;
- (b) except where also defined in Section 5.1 of Part 2 of Schedule 1, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (c) “permit” means environmental permit; and
- (d) the competent authority is the regulator.

### **Applications for the grant of an environmental permit**

3. The regulator must require that every application for the grant of an environmental permit includes the information specified in Article 4(2) of the Waste Incineration Directive.

### **Exercise of relevant functions**

4.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Waste Incineration Directive—

- (a) Article 4(3) to (5);
  - (b) Article 5;
  - (c) Article 6, except the last indent of 6(4);
  - (d) Article 7(1) to (4);
  - (e) Article 8(1) to (7);
  - (f) Article 9;
  - (g) Article 10;
  - (h) Article 11, except for 11(1) and (13);
  - (i) Article 12(2), to the extent that it relates to the provision of annual reports by the operator;
  - (j) Article 13.
- (2) But when interpreting the Waste Incineration Directive for the purposes of this paragraph—
- (a) in Article 6(4), ignore the words “Member States may lay down rules governing these authorisations” in both places they occur;
  - (b) in Article 11(1), ignore the words “either” and “or by general binding rules”;
  - (c) Article 11(2)(c) is to be read as if the words “and dioxin-like polychlorinated biphenyls and poly-cyclic aromatic hydrocarbons” appeared after the word “furans”; and
  - (d) Annex V is to be read as if every reference to an exemption which “may” be authorised by the competent authority was a reference to an exemption which “must” be authorised by the competent authority.

SCHEDULE 14

Regulation 35(2)(h)

SED installations

### **Application**

1. This Schedule applies in relation to every SED installation.

## Interpretation

2.—(1) In this Schedule—

“directly associated activity”, in relation to a SED activity, means an operation which—

- (a) has a technical connection with the SED activity,
- (b) is carried on on the same site as the SED activity, and
- (c) could have an effect on a discharge of volatile organic compounds into the environment;

“SED installation” means—

- (a) a stationary technical unit where one or more SED activities are carried on, and
- (b) any other location on the same site where any other directly associated activities are carried on; and

“the Solvent Emissions Directive” means Council Directive [1999/13/EC](#) on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations<sup>(98)</sup>.

(2) When interpreting the Solvent Emissions Directive for the purposes of this Schedule—

- (a) an expression that is defined in Section 7 of Part 2 of Schedule 1 has the meaning given in that Section;
- (b) except where also defined in that Section or in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (c) “authorisation” means environmental permit;
- (d) “emission” has the meaning given in the Solvent Emissions Directive;
- (e) “installation” means SED installation;
- (f) the competent authority is the regulator.

## Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Solvent Emissions Directive—

- (a) Article 4(4);
- (b) Article 5, except for the last sentence of 5(3), and 5(13);
- (c) Article 7(2);
- (d) Article 8(1) to (4);
- (e) Article 9;
- (f) Article 10.

(2) When interpreting the Solvent Emissions Directive for the purposes of this paragraph—

- (a) in Article 5(1), ignore the words “either” and “or by general binding rules”;
- (b) in Article 7(2), ignore the words “and during the formulation of general binding rules”; and
- (c) in point 1 of Annex IIB, ignore the last sentence.

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<sup>(98)</sup> OJ No L 85, 29.3.1999, p 1, as last amended by Directive [2008/112/EC](#) of the European Parliament and of the Council (OJ No L 345, 23.12.2008, p 72). There is 1 relevant corrigendum, OJ No L 240, 10.9.1999, p 24.

## SCHEDULE 15

Regulation 35(2)(i)

### Large combustion plants

#### Application

1. This Schedule applies in relation to every combustion plant to which the Large Combustion Plants Directive applies by virtue of Article 1 of that Directive.

#### Interpretation

2.—(1) In this Schedule—

“combustion plant” has the meaning given in Article 2(7) of the Large Combustion Plants Directive;

“existing plant” has the meaning given in Article 2(10) of the Large Combustion Plants Directive; and

“the Large Combustion Plants Directive” means Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants<sup>(99)</sup>.

(2) When interpreting the Large Combustion Plants Directive for the purposes of this Schedule—

(a) except where also defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is—

(i) for the purposes of exercising a judgment of whether there is an overriding need to maintain energy supplies under Article 7(1) or (3) of the Large Combustion Plants Directive, the appropriate authority,

(ii) otherwise, the regulator;

(c) the national emission reduction plan referred to in Article 4(6) of the Large Combustion Plants Directive is the emission plan, as amended from time to time, published under regulation 4(1) of the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007<sup>(100)</sup>;

(d) “emission” has the meaning given in the Large Combustion Plants Directive;

(e) “licence” means environmental permit;

(f) “permit” means environmental permit; and

(g) in Article 4(4), ignore the words “and from their inclusion in the national emission reduction plan”.

#### Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Large Combustion Plants Directive—

(a) Article 4(1), (2) and (4);

(b) Article 5(1);

(c) Article 6;

(d) Article 7, except the last sentence of 7(2) and the last sentence of 7(3);

<sup>(99)</sup> OJ No L 309, 27.11.2001, p 1. There is a relevant corrigendum, OJ No L 319, 23.11.2002, p 30.

<sup>(100)</sup> S.I. 2007/2325.

- (e) Article 8;
  - (f) Article 9;
  - (g) Article 10;
  - (h) Article 12;
  - (i) Article 13;
  - (j) Article 14(1), (2) and (4).
- (2) The regulator must—
- (a) exercise its relevant functions in relation to a regulated facility which—
    - (i) is an existing plant, and
    - (ii) elects to comply with the emission limit values established under Article 4(1) of the Large Combustion Plants Directive,
      - so as to ensure compliance with Article 4(3)(a) of that Directive; and
  - (b) exercise its relevant functions in relation to a regulated facility which is included in the national emission reduction plan referred to in Article 4(6) of the Large Combustion Plants Directive so as to ensure compliance with Article 4(3)(b) of that Directive, to the extent that such compliance is not ensured by the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007.
- (3) The regulator must—
- (a) immediately inform the appropriate authority of any suspension under Article 7(2) or derogation under Article 7(3) of the Large Combustion Plants Directive;
  - (b) immediately inform the appropriate authority if it considers that the appropriate authority must make a judgment of whether there is an overriding need to maintain energy supplies under Article 7(1) or (3) of the Large Combustion Plants Directive; and
  - (c) exercise its relevant functions in relation to such a judgment in accordance with the decision of that authority.

## SCHEDULE 16

Regulation 35(2)(j)

### Asbestos

#### **Application**

1. This Schedule applies in relation to every regulated facility.

#### **Interpretation**

2.—(1) In this Schedule, “the Asbestos Directive” means Council Directive [87/217/EEC](#) on the prevention and reduction of environmental pollution by asbestos(**101**).

- (2) When interpreting the Asbestos Directive for the purposes of this Schedule—
- (a) except where otherwise defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
  - (b) the competent authority is the regulator;
  - (c) “waste” has the meaning given in the Asbestos Directive.

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(101) OJ No L 85, 28.3.1987, p 40, as last amended by Council Regulation [\(EC\) No 807/2003](#) (OJ No L 122, 16.5.2003, p 36).

### Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Asbestos Directive—

- (a) Article 3;
- (b) Article 4(1);
- (c) Article 5;
- (d) Article 6(1) and (2);
- (e) Article 8.

(2) When interpreting the Asbestos Directive for the purposes of this paragraph, in Article 6(1), “regular intervals” means, for the purposes of a regulated facility to which Article 4 applies, intervals of not more than 6 months.

## SCHEDULE 17

Regulation 35(2)(k)

### Titanium dioxide

#### Application

1. This Schedule applies in relation to every regulated facility where the chlorine process or the sulphate process is carried on.

#### Interpretation

2.—(1) In this Schedule—

“the Titanium Dioxide Directive” means Council Directive [92/112/EEC](#) on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry([102](#)); and

“chlorine process” and “sulphate process” have the same meaning as in Article 2 of the Titanium Dioxide Directive.

(2) When interpreting the Titanium Dioxide Directive for the purposes of this Schedule, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part.

#### Exercise of relevant functions

3. The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Titanium Dioxide Directive—

- (a) Article 4;
- (b) Article 6;
- (c) Article 9;
- (d) Article 10;
- (e) Article 11.

(102)OJ No L 409, 31.12.1992, p 11. There is a relevant corrigendum, OJ No L 48, 26.2.1993, p68.

## SCHEDULE 18

Regulation 35(2)(l)

## Petrol vapour recovery

**Application**

1. This Schedule applies in relation to every Part B activity falling within paragraphs (b) and (c) of Part B of Section 1.2 of Part 2 of Schedule 1.

**Interpretation**

2. In this Schedule, “the Petrol Vapour Recovery Directive” means European Parliament and Council Directive [94/63/EC](#) on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(**103**).

**Exercise of relevant functions**

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Petrol Vapour Recovery Directive—

- (a) Article 3(1), first paragraph;
  - (b) Article 4(1), first and last paragraphs, and 4(3);
  - (c) Article 6(1), first paragraph.
- (2) When interpreting the Petrol Vapour Recovery Directive for the purposes of this paragraph—
- (a) in point 1 of Annex I, “special landscape areas which have been designated by national authority” includes the Broads, the New Forest and any National Park or Area of Outstanding Natural Beauty; and
  - (b) ignore points 2.3, 3.2 and 3.5 of Annex IV.

## SCHEDULE 19

Regulation 35(2)(m)

## Waste batteries and accumulators

**Application**

1. This Schedule applies in relation to waste batteries and accumulators.

**Exercise of relevant functions**

2. The regulator must exercise its relevant functions so as to ensure compliance with Article 12(2) of the Batteries Directive.

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(103) OJ No L 365, 31.12.1994, p 24, as amended by Regulation (EC) No 1882/2003 (OJ No L 284, 31.10.2003, p 1).

## SCHEDULE 20

Regulation 35(2)(n)

### Mining waste operations

#### Application

1. This Schedule applies in relation to every mining waste operation.

#### Interpretation

- 2.—(1) In this Schedule—

“mining waste facility” means a “waste facility” as defined in Article 3(15) of the Mining Waste Directive but excludes those facilities mentioned in Article 24(2) or in the first paragraph of Article 24(4) of that Directive;

“mining waste operation” means the management of extractive waste, whether or not involving a mining waste facility, but does not include the activities in Article 2(2)(c) of the Mining Waste Directive;

“relevant emergency planner” means, in relation to an application for a mining waste facility that is located in—

- (a) London, the London Fire and Emergency Planning Authority,
- (b) an area where there is a fire and civil defence authority, that authority,
- (c) the Isles of Scilly, the Council of the Isles of Scilly,
- (d) an area in the rest of England, the county council for that area or where there is no county council for that area, the district council for that area,
- (e) an area in Wales, the county council or county borough council for that area; and

“waste management plan” means a plan of the type described in Article 5(1) of the Mining Waste Directive which has the objectives in Article 5(2) and contains the elements and information set out in Article 5(3) of that Directive.

- (2) When interpreting the Mining Waste Directive for the purposes of this Schedule—
  - (a) except where otherwise defined in this paragraph, an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
  - (b) “permit” means an environmental permit; and
  - (c) the competent authority is the regulator.

#### Applications for grant or variation of an environmental permit

3.—(1) The regulator must require that every application for the grant or variation of an environmental permit in relation to a mining waste operation involving a mining waste facility to which Article 7 of the Mining Waste Directive applies includes—

- (a) the information specified in Article 7(2) of that Directive; and
- (b) where Article 6 of the Directive applies, the information mentioned in the second sentence of the third paragraph of Article 6(3).

(2) Where the regulator receives an application for the grant or variation of an environmental permit and that application includes the information required under sub-paragraph (1)(b), the regulator must immediately forward the information to the relevant emergency planner.

(3) The regulator must require that every application for the grant or variation of an environmental permit in relation to any other mining waste operation includes a waste management plan.

(4) For the purposes of this paragraph, the regulator may accept a waste management plan produced pursuant to other legislation which complies with Article 5(1) to (4) of the Mining Waste Directive if it has been reviewed and amended in accordance with Article 5(4) of that Directive.

#### **Review of environmental permits**

4. The regulator must periodically review an environmental permit relating to a mining waste facility if Article 7 of the Mining Waste Directive applies in respect of that facility and any of the circumstances in Article 7(4) of the Directive apply in relation to it.

#### **Classification of mining waste facilities**

5. The regulator must exercise its functions so as to ensure compliance with Article 9 of the Mining Waste Directive in respect of any mining waste facility to which Article 7 of that Directive does not apply.

#### **Inspections**

6. The regulator must inspect every mining waste facility to which Article 7 of the Mining Waste Directive applies so as to comply with the requirements of Article 17(1) of that Directive.

#### **Exercise of relevant functions**

7. The regulator must exercise its relevant functions so as to ensure compliance with the following requirements of the Mining Waste Directive—

- (a) Article 2(4);
- (b) Article 4;
- (c) Article 5(4) and (6);
- (d) Article 6(2), the first and second paragraphs of Article 6(3), the first paragraph of Article 6(4) to the extent that it relates to plans prepared under the first paragraph of Article 6(3) and the second paragraph of Article 6(4) to the extent that it relates to the regulator's functions;
- (e) Article 7(1) and (3)(a);
- (f) Article 10;
- (g) Article 11;
- (h) Article 12;
- (i) Article 13;
- (j) Article 14 (1) to (3);
- (k) Article 17(2);
- (l) Article 24(1).

#### **Public participation**

8. The regulator must exercise its functions under the public participation provisions in relation to mining waste facilities to which Article 7 of the Mining Waste Directive applies so as to meet the requirements of Article 8 of that Directive.

### **Derogation from requirements**

9.—(1) The regulator must exercise its functions to ensure that the requirements mentioned in the first paragraph of Article 2(3) of the Mining Waste Directive do not apply to the substances mentioned in that paragraph where they result from an operation mentioned in that paragraph, to the extent allowed by that paragraph.

(2) The regulator must waive the requirements of the Mining Waste Directive in relation to the deposit of the substances mentioned in the second paragraph of Article 2(3) of that Directive if the regulator is satisfied that the requirements of Article 4 of that Directive are met.

(3) The regulator must waive the requirements mentioned in the third paragraph of Article 2(3) of the Mining Waste Directive in relation to the waste mentioned in that paragraph to the extent allowed by that paragraph.

### **Closure of a mining waste facility**

10.—(1) The regulator must set out any reasoned decision under Article 12(2)(c) of the Mining Waste Directive in a closure notice served on the operator.

(2) A closure notice must, in addition to stating the regulator's reasons for requiring initiation of the closure procedure, specify—

- (a) the steps the operator is required to take to initiate the procedure; and
- (b) the period within which they must be taken.

(3) The regulator may withdraw a closure notice at any time by further notice served on the operator.

(4) Closure of a mining waste facility does not relieve the operator of liability under the environmental permit conditions that relate to the facility.

(5) The regulator must exercise its functions so as to ensure compliance with Article 14(4) of the Mining Waste Directive.

### **Inventory of closed mining waste facilities**

11. The regulator must maintain and make available to the public an inventory of closed mining waste facilities so as to ensure compliance with Article 20 of the Mining Waste Directive.

### **Developments in best available techniques**

12.—(1) The regulator must ensure that it is informed of developments in best available techniques.

(2) In this paragraph, “best available techniques” has the meaning given in Article 2(12) of the IPPC Directive.

### **Planning permission requirements and conditions**

13.—(1) Following an application under regulation 13(1), the regulator must not grant an environmental permit in relation to a mining waste facility to which Article 7 of the Mining Waste Directive applies if use of the site as a mining waste facility requires planning permission and no such permission is in force.

(2) Where—

- (a) a mining waste operation is the subject of an environmental permit;
- (b) that operation has been granted planning permission subject to conditions (“planning conditions”); and

(c) there is an inconsistency between the environmental permit conditions and the planning conditions,  
the environmental permit conditions prevail.

(3) In this paragraph, “planning permission” means planning permission under the Town and Country Planning Act 1990(104) and includes—

- (a) a certificate under section 191 of that Act; and
- (b) an established use certificate under section 192 of that Act, as originally enacted, which continues to have effect for the purposes of subsection (4) of that section.

### **Applications for grant or variation of an environmental permit for a Category A mining waste facility**

14.—(1) The regulator must not grant an application for the grant or variation of an environmental permit relating to a Category A mining waste facility until it has been notified by the relevant emergency planner that it has the information necessary to enable it to draw up an external emergency plan.

(2) The regulator must refuse an application relating to a Category A mining waste facility that is an existing mining waste facility upon receipt of a notice by the relevant emergency planner stating that the operator has not provided the information necessary to enable the relevant emergency planner to draw up an external emergency plan.

(3) In this paragraph, “external emergency plan” means a plan as required under the third paragraph of Article 6(3) of the Mining Waste Directive that has the objectives specified in the first paragraph of Article 6(4) of that Directive.

## SCHEDULE 21

Regulation 35(2)(o)

### Water discharge activities

#### **Application**

1. This Schedule applies in relation to every water discharge activity.

#### **Interpretation**

2. In this Schedule—

“discharging sewer” means the sewer or works from which sewage effluent is discharged;

“discharging undertaker” means the sewerage undertaker in which a discharging sewer is vested;

“main connection” has the same meaning as in section 110A of the Water Industry Act 1991(105);

“pipe” has the same meaning as in the 1991 Act;

“sending undertaker” means a sewerage undertaker which discharges sewage effluent into the discharging sewer or other sewer or works vested in the discharging undertaker; and

“waste” in the term “waste matter” includes—

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(104) 1990 c. 8. Sections 191 and 192 were amended by the Planning and Compensation Act 1991 (c. 34), section 10(1).

(105) Section 110A was inserted by the Competition and Service (Utilities) Act 1992 (c. 43), section 45 and amended by the Water Act 2003 (c. 37), section 36(2) and the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 104.

- (a) anything that is waste for the purposes of the Waste Framework Directive and is not excluded from the scope of that Directive by Article 2(1) of that Directive,
- (b) anything that is waste for the purposes of the Mining Waste Directive and is not excluded from the scope of that Directive by Article 2(2) of that Directive.

### **Meaning of “water discharge activity”**

3.—(1) A “water discharge activity” means any of the following—

- (a) the discharge or entry to inland freshwaters, coastal waters or relevant territorial waters of any—
    - (i) poisonous, noxious or polluting matter,
    - (ii) waste matter, or
    - (iii) trade effluent or sewage effluent;
  - (b) the discharge from land through a pipe into the sea outside the seaward limits of relevant territorial waters of any trade effluent or sewage effluent;
  - (c) the removal from any part of the bottom, channel or bed of any inland freshwaters of a deposit accumulated by reason of any dam, weir or sluice holding back the waters, by causing it to be carried away in suspension in the waters, unless the activity is carried on in the exercise of a power conferred by or under any enactment relating to land drainage, flood prevention or navigation;
  - (d) the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them and failure to take reasonable steps to remove the vegetation from these waters;
  - (e) an activity in respect of which a notice under paragraph 4 or 5 has been served and has taken effect.
- (2) A discharge or an activity that might lead to a discharge is not a “water discharge activity”—
- (a) if the discharge is made, or authorised to be made, by or under any prescribed statutory provision; or
  - (b) if the discharge is of trade effluent or sewage effluent from a vessel.
- (3) In determining whether a discharge or an activity is a water discharge activity, no account must be taken of any radioactivity possessed by any substance or article or by any part of any premises.

### **Highway drains – notice requiring environmental permit**

4.—(1) This paragraph applies where—

- (a) a person is operating a highway drain; and
  - (b) that activity might lead to a discharge mentioned in paragraph 3(1)(a) or (b).
- (2) The regulator may serve a notice on the person operating the highway drain requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of that activity.
- (3) A notice under this paragraph takes effect on the date specified in it, which must be at least 6 months after it is served.

### **Discharge of trade effluent or sewage effluent into lake or pond – notice requiring environmental permit**

5.—(1) The regulator may serve a notice on a person who discharges trade effluent or sewage effluent into the waters of any lake or pond which are not inland freshwaters requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of that activity.

(2) A notice under this paragraph takes effect on the date specified in it, which must be at least 3 months after it is served.

### **Liability resulting from discharge of sewage effluent from public sewer**

6.—(1) This paragraph applies for the purpose of determining liability for a water discharge activity that consists of a discharge of sewage effluent from a discharging sewer vested in a discharging undertaker.

(2) A discharging undertaker causes a discharge of sewage effluent if—

- (a) matter included in the discharge is received by the discharging undertaker into the discharging sewer or into any other sewer or works vested in it;
- (b) the discharging undertaker was bound (either unconditionally or subject to conditions which were observed) to receive the matter into the discharging sewer or other sewer or works; and
- (c) sub-paragraph (3) does not apply.

(3) This sub-paragraph applies if, before the discharging undertaker discharges the sewage effluent from the discharging sewer, the sending undertaker, under an agreement with the discharging undertaker under section 110A of the Water Industry Act 1991, discharges the sewage effluent through a main connection into—

- (a) the discharging sewer; or
- (b) any other sewer or works vested in the discharging undertaker.

(4) If sub-paragraph (3) applies, the sending undertaker causes the discharge if—

- (a) matter included in the discharge is received by the sending undertaker into a sewer or works vested in it; and
- (b) it was bound (either conditionally or subject to conditions which were observed) to receive that matter into that sewer or works.

(5) A sewerage undertaker is not guilty of an offence under regulation 38(1) in relation to a water discharge activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

- (a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works;
- (b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and
- (c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

(6) A person is not guilty of an offence under regulation 38(1) in relation to a discharge which the person caused or knowingly permitted to be made into a sewer or works vested in a sewerage undertaker if that undertaker was bound to receive the discharge, either unconditionally or subject to conditions which were observed.

## SCHEDULE 22

Regulation 35(2)(p)

### Groundwater activities

#### Application

1. This Schedule applies in relation to every groundwater activity.

#### Interpretation

2. In this Schedule—
  - “body of groundwater” has the same meaning as in the Water Framework Directive;
  - “direct input” in relation to groundwater means the introduction of a pollutant to groundwater without percolation through soil or subsoil;
  - “Groundwater Daughter Directive” means Directive [2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration(**106**);
  - “Groundwater Directive” means Council Directive [80/68/EEC](#) on the protection of groundwater against pollution caused by certain dangerous substances(**107**);
  - “indirect input” in relation to groundwater means the introduction of a pollutant to groundwater after percolation through soil or subsoil; and
  - “surface waters” has the same meaning as in the Water Framework Directive.

#### Meaning of “groundwater activity”

- 3.—(1) Subject to sub-paragraphs (2) and (3), “groundwater activity” means any of the following—
  - (a) the discharge of a pollutant that results in the direct input of that pollutant to groundwater;
  - (b) the discharge of a pollutant in circumstances that might lead to an indirect input of that pollutant to groundwater;
  - (c) any other discharge that might lead to the direct or indirect input of a pollutant to groundwater;
  - (d) an activity in respect of which a notice under paragraph 10 has been served and has taken effect;
  - (e) an activity that might lead to a discharge mentioned in paragraph (a), (b) or (c), where that activity is carried on as part of the operation of a regulated facility of another class.
- (2) A discharge or an activity that might lead to a discharge is not a “groundwater activity” if the discharge is—
  - (a) made, or authorised to be made, by or under any prescribed statutory provision; or
  - (b) of trade effluent or sewage effluent from a vessel.
- (3) The regulator may determine that a discharge, or an activity that might lead to a discharge, is not a groundwater activity if the input of the pollutant—
  - (a) is the consequence of an accident or exceptional circumstances of natural cause that could not reasonably have been foreseen, avoided or mitigated;
  - (b) is or would be of a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater; or

(106) OJ No L 372, 27.12.2006, p 19.

(107) OJ No L 20, 26.1.1980, p 43.

- (c) is or would be incapable, for technical reasons, of being prevented or limited without using —
- (i) measures that would increase risks to human health or to the quality of the environment as a whole, or
  - (ii) disproportionately costly measures to remove quantities of pollutants from, or otherwise control their percolation in, contaminated ground or subsoil.
- (4) The regulator must keep a record of all determinations under sub-paragraph (3).

#### **Meaning of “hazardous substance”**

4.—(1) A hazardous substance is any substance or group of substances that are toxic, persistent and liable to bio-accumulate.

(2) This includes in particular the following when they are toxic, persistent and liable to bio-accumulate—

- (a) organohalogen compounds and substances which may form such compounds in the aquatic environment,
  - (b) organophosphorous compounds,
  - (c) organotin compounds,
  - (d) substances and preparations, or the breakdown products of such, which have been proved to possess carcinogenic or mutagenic properties or properties which may affect steroidogenic, thyroid, reproduction or other endocrine-related functions in or via the aquatic environment,
  - (e) persistent hydrocarbons and persistent and bioaccumulable organic toxic substances,
  - (f) cyanides,
  - (g) metals (in particular, cadmium and mercury) and their compounds,
  - (h) arsenic and its compounds,
  - (i) biocides and plant protection products.
- (3) The regulator must publish a list of substances that it considers to be hazardous substances.

#### **Meaning of “non-hazardous pollutant”**

5. A non-hazardous pollutant is any pollutant other than a hazardous substance.

#### **Exercise of relevant functions**

6. For the purposes of implementing the Groundwater Directive, the Water Framework Directive and the Groundwater Daughter Directive, the regulator must, in exercising its relevant functions, take all necessary measures—

- (a) to prevent the input of any hazardous substance to groundwater; and
- (b) to limit the input of non-hazardous pollutants to groundwater so as to ensure that such inputs do not cause pollution of groundwater.

#### **Applications for grant of environmental permit**

7.—(1) This paragraph applies to an application for the grant of an environmental permit relating to—

- (a) a discharge mentioned in paragraph 3(1)(a), (b) or (c); or

- (b) an activity that might lead to such a discharge.
- (2) When the regulator receives an application, it must ensure that all necessary investigations have been carried out to ensure that it grants any permit in accordance with paragraph 6.
- (3) If it grants the permit, it must include conditions requiring all necessary technical precautions to be observed to ensure the objectives of paragraph 6 are achieved.
- (4) A permit may not be granted—
  - (a) without examination of—
    - (i) the hydrogeological conditions of the area concerned,
    - (ii) the possible purifying powers of the soil and subsoil, and
    - (iii) the risk of pollution and alteration of the quality of the groundwater from the discharge, and
  - (b) without establishing whether the input of pollutants to groundwater is a satisfactory solution from the point of view of the environment.
- (5) A permit may only be granted if the regulator has checked that the groundwater (and, in particular, its quality) will undergo the requisite surveillance.

#### **Groundwater activities for which a permit may be granted**

**8.** Despite paragraph 6, provided it does not compromise the achievement of any of the environmental objectives relating to groundwater in Article 4 of the Water Framework Directive, the regulator may grant an environmental permit for—

- (a) the injection of water containing substances resulting from the operations for exploration and extraction of hydrocarbons or mining activities, and injection of water for technical reasons, into geological formations from which hydrocarbons or other substances have been extracted or into geological formations which for natural reasons are permanently unsuitable for other purposes, provided that the injection does not contain substances other than those resulting from the above operations,
- (b) the reinjection of pumped groundwater from mines and quarries or associated with the construction or maintenance of civil engineering works,
- (c) the injection of natural gas or liquefied petroleum gas for storage purposes into geological formations which for natural reasons are permanently unsuitable for other purposes,
- (d) the injection of natural gas or liquefied petroleum gas for storage purposes into other geological formations where there is an overriding need for security of gas supply, and where the injection is such as to prevent any present or future danger of deterioration in the quality of any receiving groundwater,
- (e) construction, civil engineering and building works and similar activities on or in the ground which come into contact with groundwater,
- (f) discharges of small quantities of substances for scientific purposes for characterisation, protection or remediation of bodies of water limited to the amount strictly necessary for the purposes concerned,
- (g) interventions in surface waters for the purposes, amongst others, of mitigating the effects of floods and droughts, and for the management of waters and waterways,
- (h) the artificial recharge or augmentation of a body of groundwater for the purposes of groundwater management,
- (i) reinjection into the same aquifer of water used for geothermal purposes.

### **Prohibition notice**

- 9.**—(1) This paragraph applies where—
- (a) any person is carrying on, or proposing to carry on, any activity on or in the ground; and
  - (b) that activity might lead to a discharge mentioned in paragraph 3(1)(a), (b) or (c).
- (2) The regulator may serve a notice on the person prohibiting the carrying on of the activity.
- (3) The regulator may withdraw a prohibition notice at any time by further notice served on the person.

### **Notice requiring environmental permit**

- 10.**—(1) This paragraph applies where—
- (a) any person is carrying on, or proposing to carry on, any activity on or in the ground; and
  - (b) that activity might lead to a discharge mentioned in paragraph 3(1)(a), (b) or (c).
- (2) The regulator may serve a notice on the person requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of the activity.
- (3) A notice under paragraph (1) takes effect on the date specified in it, but—
- (a) a notice served for the purpose of paragraph 11 must not take effect until at least 6 months after it is served; and
  - (b) a notice served for the purpose of paragraph 12, or for any other purpose, must not take effect until at least 3 months after it is served.

### **Notice in relation to a highway drain**

- 11.** A highway authority or other person entitled to keep open a highway drain by virtue of section 100 of the 1980 Act who operates a highway drain other than under and in accordance with an environmental permit is not guilty of an offence under regulation 38(1) unless—
- (a) the regulator has served a notice on that person under paragraph 10 of this Schedule; and
  - (b) the notice has taken effect.

### **Notice in relation to a domestic septic tank or sewage treatment plant**

- 12.** Before 1st January 2012, a person who, other than under and in accordance with an environmental permit, uses a septic tank or sewage treatment plant with a discharge of 2 cubic metres per day or less of sewage effluent that results in the input of pollutants to groundwater is not guilty of an offence under regulation 38(1) unless—
- (a) the regulator has served a notice on that person under paragraph 10 of this Schedule; and
  - (b) the notice has taken effect.

### **Guidance**

- 13.**—(1) The appropriate authority may issue guidance to persons causing or liable to cause inputs of pollutants to groundwater with respect to the steps they must take to prevent or limit those pollutants from entering groundwater.
- (2) The regulator must take into account whether or not such guidance is or is likely to be complied with before taking any enforcement action under these Regulations.
- (3) Guidance must be publicised as the appropriate authority sees fit.

### **Liability resulting from discharge of sewage effluent from public sewer**

**14.**—(1) This paragraph applies for the purpose of determining liability for a groundwater activity that consists of a discharge of sewage effluent from a discharging sewer vested in a discharging undertaker.

(2) A discharging undertaker causes a discharge of sewage effluent if—

- (a) matter included in the discharge is received by the discharging undertaker into the discharging sewer or into any other sewer or works vested in it;
- (b) the discharging undertaker was bound (either unconditionally or subject to conditions which were observed) to receive the matter into the discharging sewer or other sewer or works; and
- (c) sub-paragraph (3) does not apply.

(3) This sub-paragraph applies if, before the discharging undertaker discharges the sewage effluent from the discharging sewer, the sending undertaker, under an agreement with the discharging undertaker under section 110A of the Water Industry Act 1991, discharges the sewage effluent through a main connection into—

- (a) the discharging sewer; or
- (b) any other sewer or works vested in the discharging undertaker.

(4) If sub-paragraph (3) applies, the sending undertaker causes the discharge if—

- (a) matter included in the discharge was received by the sending undertaker into a sewer or works vested in it; and
- (b) it was bound (either conditionally or subject to conditions which were observed) to receive that matter into that sewer or works.

(5) A sewerage undertaker is not guilty of an offence under regulation 38(1) in relation to a groundwater activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

- (a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works;
- (b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and
- (c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

(6) A person is not guilty of an offence under regulation 38(1) in relation to a discharge which the person caused or knowingly permitted to be made into a sewer or works vested in a sewerage undertaker if that undertaker was bound to receive the discharge, either unconditionally or subject to conditions which were observed.

## SCHEDULE 23

Regulation 35(2)(q)

## Radioactive substances activities

## PART 1

## Application

**Application**

1. This Schedule applies in relation to every radioactive substances activity.

## PART 2

## Interpretation

**Interpretation**

1. In this Schedule—

“article” includes a part of an article;

“the Basic Safety Standards Directive” means Council Directive 96/29/EURATOM(108) laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation;

“contamination” occurs where a substance or article is so affected by—

- (a) absorption, admixture or adhesion of radioactive material or radioactive waste; or
- (b) the emission of neutrons or ionising radiations,

as to become radioactive or to possess increased radioactivity;

“disposal” in relation to waste includes its removal, deposit, destruction, discharge (whether into water or into the air or into a sewer or drain or otherwise) or burial (whether underground or otherwise) and “dispose of” is to be construed accordingly;

“mobile radioactive apparatus” means any apparatus, equipment, appliance or other thing which is radioactive material and—

- (a) is constructed or adapted for being transported from place to place; or
- (b) is portable and designed or intended to be used for releasing radioactive material into the environment or introducing it into organisms;

“nuclear site” means—

- (a) any site in respect of which a nuclear site licence is for the time being in force; or
- (b) any site in respect of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not yet come to an end,

and “licensee”, when used in relation to a nuclear site, and “period of responsibility” have the same meaning as in the Nuclear Installations Act 1965(109);

“premises” includes any land, whether covered by buildings or not, including any place underground and any land covered by water;

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(108) OJ L 159, 29.6.1996, p 1.

(109) 1965 c. 57. Section 5(3) was amended by S.I. 1974/2056, regulation 2 and Schedule 2, paragraph 1.

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

“undertaking” includes any trade, business or profession and—

- (a) in relation to a public or local authority, includes any of the powers or duties of that authority, and
- (b) in relation to any other body of persons (whether corporate or unincorporate), includes any of the activities of that body; and

“waste” has the meaning given in paragraph 3.

### **Interpretation: radioactive material**

2.—(1) In this Schedule, “radioactive material” means anything which, not being waste, is either a substance to which this sub-paragraph applies or an article made wholly or partly from, or incorporating, such a substance.

(2) Sub-paragraph (1) applies to any substance which—

- (a) contains an element specified in the first column of the table in sub-paragraph (4), in such a proportion that the number of becquerels of that element contained in the substance, divided by the number of grams which the substance weighs, is a number greater than that specified in relation to that element in the appropriate column of that table; or
- (b) possesses radioactivity which is wholly or partly attributable to a process of nuclear fission or other process of subjecting a substance to bombardment by neutrons or to ionising radiations, not being a process occurring in the course of nature, or in consequence of the disposal of radioactive waste, or by way of contamination in the course of the application of a process to some other substance.

(3) In sub-paragraph (2)(a), “the appropriate column” means—

- (a) in relation to a solid substance, the second column;
- (b) in relation to a liquid substance, the third column;
- (c) in relation to a substance which is a gas or vapour, the fourth column.

(4) The table referred to in sub-paragraph (2)(a)—

#### **Specified elements**

<i>Element</i>	<i>Becquerels per gram (Bq g (to the power of -1))</i>		
	Solid	Liquid	Gas or Vapour
1. Actinium	0.37	7.40 x (10 to the power of -2)	2.59 x (10 to the power of -6)
2. Lead	0.74	3.70 x (10 to the power of -3)	1.11 x (10 to the power of -4)
3. Polonium	0.37	2.59 x (10 to the power of -2)	2.22 x (10 to the power of -4)
4. Protoactinium	0.37	3.33 x (10 to the power of -2)	1.11 x (10 to the power of -6)
5. Radium	0.37	3.70 x (10 to the power of -4)	3.70 x (10 to the power of -5)

<i>Element</i>	<i>Becquerels per gram (Bq g (to the power of -1))</i>		
6. Radon	-	-	3.70 x (10 to the power of -2)
7. Thorium	2.59	3.70 x (10 to the power of -2)	2.22 x (10 to the power of -5)
8. Uranium	11.1	0.74	7.40 x (10 to the power of -5)

### **Interpretation: waste**

#### **3. In this Schedule—**

##### (a) “waste” includes—

- (i) any substance which constitutes scrap material or an effluent or other unwanted surplus substance arising from the application of any process, and
- (ii) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled; and

- (b) any substance or article which, in the course of carrying on any undertaking, is discharged, discarded or otherwise dealt with as if it were waste is presumed to be waste unless the contrary is proved.

### **Interpretation: radioactive waste**

#### **4. In this Schedule, “radioactive waste” means waste which consists wholly or partly of—**

- (a) a substance or article which, if it were not waste, would be radioactive material;
- (b) a substance or article which has been contaminated in the course of the production, keeping or use of radioactive material, or by contact with or proximity to other waste falling within sub-paragraph (a) or this sub-paragraph.

### **Interpretation:radioactive substances activity**

**5.—(1)** Subject to paragraphs 6 and 7, “radioactive substances activity” means an activity described in sub-paragraph (2), (4), (5) or (6).

(2) A radioactive substances activity is carried on where a person uses premises for the purposes of an undertaking and that person—

- (a) except where sub-paragraph (5) applies, keeps or uses radioactive material on those premises;
- (b) disposes of radioactive waste on or from those premises; or
- (c) accumulates radioactive waste on those premises,

knowing or having reasonable grounds for believing the material or waste to be radioactive material or radioactive waste.

#### **(3) For the purposes of sub-paragraph (2)(c), where—**

- (a) radioactive material is produced, kept or used on any premises;
- (b) any substance arising from the production, keeping or use of that material is accumulated in a part of the premises appropriated for the purpose; and
- (c) that substance is retained there for a period of not less than 3 months,

that substance, unless the contrary is proved, is presumed to be radioactive waste.

(4) A radioactive substances activity is carried on where, in the course of a person carrying on an undertaking, that person—

- (a) receives radioactive waste for the purposes of disposing of that waste; and
- (b) knows or has reasonable grounds for believing the waste to be radioactive waste.

(5) A radioactive substances activity is carried on where a person keeps or uses mobile radioactive apparatus for—

- (a) testing, measuring or otherwise investigating any of the characteristics of substances or articles; or
- (b) releasing quantities of radioactive material into the environment or introducing such material into organisms.

(6) A radioactive substances activity is carried on where a person carries out intrusive investigation work or other excavation, construction or building work—

- (a) to determine the suitability of any premises; or
- (b) to enable the use of any premises,

as a place that may be used wholly or substantially for underground disposal.

(7) In sub-paragraph (6)—

“intrusive investigation work” means the drilling of boreholes into, or excavation of, sub-soil or rock to determine geological or hydrogeological conditions; and

“underground disposal” means—

- (a) the disposal of solid radioactive waste in an engineered facility, or in part of an engineered facility, which is beneath the surface of the ground, and
- (b) where the natural environment which surrounds the facility acts, in combination with any engineered measures, to inhibit the transit of radionuclides from the facility to the surface,

and does not include the disposal of radioactive waste in a facility which is beneath the surface of the ground only by virtue of the placing of rocks or soil above it.

### **Nuclear sites**

6.—(1) Paragraph 5(2)(a) does not apply to the activity carried on by a licensee of a nuclear site on any premises situated on that site at any time—

- (a) while a nuclear site licence is in force in respect of that site; and
- (b) after the revocation or surrender of such a licence but before the period of responsibility of the licensee has come to an end.

(2) In respect of any premises which—

- (a) are situated on a nuclear site; but
- (b) have ceased to be used for the purposes of an undertaking carried on by the licensee,

paragraph 5(2)(b) applies to those premises as if the premises were used for the purposes of an undertaking carried on by the licensee.

(3) Paragraph 5(2)(c) does not apply to the accumulation of radioactive waste on any premises situated on a nuclear site.

### **Vehicles, vessels and aircraft**

7. In determining whether any radioactive material is kept or used on any premises, no account must be taken of any radioactive material kept or used in or on any railway vehicle, road vehicle, vessel or aircraft if—

- (a) the vehicle, vessel or aircraft is on the premises in the course of a journey; or
- (b) in the case of a vessel which is on those premises otherwise than in the normal course of a journey, the material is used in propelling the vessel or is kept in or on the vessel for use in propelling it.

## PART 3

### The Basic Safety Standards Directive

#### SECTION 1

##### *Exposures and doses*

1. In respect of a radioactive substances activity that relates to radioactive waste, the regulator must exercise its relevant functions to ensure that—

- (a) all exposures to ionising radiation of any member of the public and of the population as a whole resulting from the disposal of radioactive waste are kept as low as reasonably achievable, taking into account economic and social factors; and
- (b) the sum of the doses resulting from the exposure of any member of the public to ionising radiation does not exceed the dose limits set out in Article 13 of the Basic Safety Standards Directive subject to the exclusions set out in Article 6(4) of that Directive.

2.—(1) In exercising those relevant functions in relation to the planning stage of radiation protection, the regulator must have regard to the following maximum doses to individuals which may result from a defined source—

- (a) 0.3 millisieverts per year from any source from which radioactive discharges are first made on or after 13th May 2000; or
- (b) 0.5 millisieverts per year from the discharges from any single site.

(2) In exercising those relevant functions, the regulator must observe the following requirements of the Basic Safety Standards Directive—

- (a) in estimating effective dose and equivalent dose, Articles 15 and 16;
- (b) in estimating population doses, Article 45; and
- (c) in relation to the responsibilities of undertakings, Article 47.

#### SECTION 2

##### *Interventions*

#### **Radioactive waste: power of the Secretary of State to provide facilities for disposal or accumulation**

3.—(1) If it appears to the Secretary of State that adequate facilities are not available for the safe disposal or accumulation of radioactive waste, the Secretary of State may—

- (a) provide such facilities; or
- (b) make arrangements for their provision by such persons as the Secretary of State may think fit.

(2) Before exercising the power under sub-paragraph (1), the Secretary of State must consult with—

- (a) any local authority in whose area the facilities would be situated; and

- (b) such other public or local authorities (if any) as appear to the Secretary of State to be proper to be consulted.
- (3) Reasonable charges for the use of any facilities provided under sub-paragraph (1) may be made by—
  - (a) the Secretary of State; or
  - (b) the person providing such facilities, unless the arrangements made by the Secretary of State with that person provide to the contrary.

#### **Radioactive waste: power of disposal by the regulator**

4.—(1) Sub-paragraph (2) applies if there is radioactive waste on any premises and the regulator is satisfied that the waste ought to be disposed of but it is unlikely that the waste will be lawfully disposed of—

- (a) because the premises are unoccupied;
- (b) because the occupier is absent or insolvent; or
- (c) for any other reason.

(2) The regulator may dispose of the waste and recover any expenses it reasonably incurs in that disposal from—

- (a) the occupier of the premises;
- (b) if the premises are unoccupied, the owner of the premises.

(3) In sub-paragraph (2)—

- (a) “owner” has the same meaning as in section 343 of the Public Health Act 1936(110); and
- (b) the provisions of section 294 of that Act (which limits the liability of owners who are only agents or trustees) apply but as if reference in that section to a council recovering expenses under that Act were to the regulator recovering expenses under sub-paragraph (2).

## PART 4

### The HASS Directive

#### SECTION 1

#### *Security of sources*

#### **Interpretation**

1. In this Part—

“the HASS Directive” means Council Directive 2003/122/EURATOM(111) on the control of high-activity sealed radioactive sources and orphan sources;

“high-activity or similar source” means—

- (a) a high-activity source; or
- (b) such other sealed source which, in the opinion of the regulator, is of a similar level of potential hazard to a high-activity source;

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(110) 1936 c. 49.

(111) OJ No L 346, 31.12.2003, p 57.

“high-activity source” has the same meaning as in the HASS Directive but excluding any such source once its activity level has fallen below the exemption levels specified in column 2 of Table A to Annex I to the Basic Safety Standards Directive;

“orphan source” has the same meaning as in the HASS Directive; and

“sealed source” has the same meaning as in the HASS Directive.

#### **Site security: inspection**

2.—(1) In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with sub-paragraph (3) where a high-activity or similar source is, or will be, kept, used, disposed of or accumulated on any premises.

(2) Sub-paragraph (1) does not apply where the premises are, or are part of, a nuclear site.

(3) In considering if the measures taken, or to be taken, by the operator ensure the adequate security of any premises, the regulator must where appropriate inspect those premises.

(4) Where the regulator inspects any premises under sub-paragraph (3), it may be accompanied by such other persons as are appropriate to assist it in assessing the measures.

(5) An operator must permit the regulator (and any person accompanying it) reasonable access to any premises the regulator wishes to inspect under sub-paragraph (3).

(6) If the operator fails to comply with sub-paragraph (5), the regulator may refuse the application or revoke the permit insofar as it relates to the sources referred to in sub-paragraph (1).

#### **Site security: security measures and advice**

3.—(1) In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with sub-paragraph (2) where a high-activity or similar source is, or will be, kept, used, disposed of or accumulated on any premises.

(2) The regulator—

(a) must be satisfied that there are in place measures concerning site security, including the security measures in sub-paragraph (3), as are appropriate to the source and premises in question;

(b) where it considers it appropriate to do so, must consult the police, security services or other appropriate persons on site security;

(c) must have regard to any advice given by them, if it is issued within such time as the regulator believes is reasonable before it exercises a relevant function; and

(d) must impose appropriate environmental permit conditions concerning site security.

(3) The security measures referred to in sub-paragraph (2)(a) are—

(a) measures to ensure the physical security of the premises, including the installation of alarm and detection systems, and the retaining of documentary evidence of those measures;

(b) measures, which are evidenced in writing—

(i) to prevent unauthorised access to, or loss or theft of, a high-activity or similar source;

(ii) to detect such matters; and

(iii) to review and enhance the physical security of the premises in response to any increased risk of unauthorised access, loss or theft;

(c) written procedures to ensure that before a person is authorised to have access to a high-activity or similar source—

(i) that person has passed checks to verify their identity, and

- (ii) satisfactory written references have been obtained which confirm, as far as reasonably practicable, that there is no information to indicate that the person presents any security risk to the sources; and
- (d) measures to keep secure, and prevent unauthorised access to, information relating to—
  - (i) a high-activity or similar source, and
  - (ii) the measures referred to in paragraphs (a), (b) and (c).

## SECTION 2

### *Advice and assistance in relation to orphan sources*

#### **Advice and assistance in respect of orphan sources**

- 4.—(1) The relevant person must ensure that specialised technical advice and assistance is promptly made available to persons who—
- (a) are not normally involved in operations subject to radiation protection requirements, and
  - (b) suspect the presence of an orphan source.
- (2) The relevant person must ensure that the primary aim of such advice and assistance is—
- (a) the safety of the source; and
  - (b) protecting the public and workers from radiation.
- (3) The relevant person means—
- (a) in relation to the protection of workers, the Secretary of State;
  - (b) in relation to the protection of the public (other than workers)—
    - (i) in England, the Secretary of State,
    - (ii) in Wales, the Welsh Ministers.

## SECTION 3

### *Exercise of relevant functions and matters in relation to orphan sources*

#### **General**

- 5.—(1) In exercising relevant functions in relation to a radioactive substances activity, the regulator must comply with the following provisions of the HASS Directive—
- (a) Article 3(2) and (3);
  - (b) Article 4;
  - (c) Article 5(1) and (2);
  - (d) Article 6;
  - (e) subject to sub-paragraph (2), Article 7(1) and (2).
- (2) In relation to a high-activity source placed on the market before 31st December 2005, sub-paragraph (1)(e) has effect as if it referred to the provisions contained in Article 16(1)(b) of the HASS Directive.

#### **Records and inspections**

6. In relation to a high-activity source, the regulator must—
- (a) keep records of those matters—

- (i) required by Article 5(3) and (4) of the HASS Directive; and
  - (ii) notified to it under Article 6 of that Directive;
- and
- (b) establish or maintain a system of inspections to enforce the following provisions of the HASS Directive—
    - (i) Articles 3 to 6;
    - (ii) as appropriate, Article 7(1) and (2) or Article 16(1)(b).

### **Training and information**

7.—(1) In relation to a high-activity source, the appropriate training and adequate information required by the Ionising Radiations Regulations 1999(112) must include—

- (a) specific requirements for the safe management of such a source;
- (b) particular emphasis on the necessary safety requirements in relation to such a source; and
- (c) specific information on possible consequences of the loss of adequate control of such a source.

(2) The training and information on the matters in sub-paragraph (1) must be repeated at regular intervals and documented, with a view to preparing the employees and other persons referred to in those Regulations for such matters.

### **Orphan sources**

8.—(1) The regulator must—

- (a) be prepared, or have made provision (including the assignment of responsibilities), to recover any orphan source; and
- (b) have drawn up appropriate response plans and measures.

(2) The regulator may recover any expenses reasonably incurred by it in the recovery and disposal of an orphan source from—

- (a) the person carrying on the radioactive substances activity involving that source; or
- (b) the occupier or owner of the premises where the source is located.

(3) In relation to sub-paragraph (2)—

- (a) “owner” has the same meaning as in section 343 of the Public Health Act 1936(113); and
- (b) the provisions of section 294 of that Act (which limits the liability of owners who are only agents or trustees) apply but as if reference in that section to a council recovering expenses under that Act were to the regulator recovering expenses under sub-paragraph (2).

## **PART 5**

### **Conditions in environmental permits**

#### **Posting on premises of environmental permits**

1.—(1) Subject to sub-paragraph (3), the regulator must impose environmental permit display conditions on an environmental permit granted under these Regulations if the permit—

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(112) S.I. 1999/3232.

(113) 1936 c. 49.

- (a) relates to a radioactive substances activity described in paragraph 5(2) of Part 2 of this Schedule; and
  - (b) does not relate to a sealed source.
- (2) Despite regulation 69(b), where an existing radioactive substances permit—
- (a) becomes an environmental permit by virtue of regulation 69(a); and
  - (b) does not relate to a sealed source,
- the environmental permit has effect subject to environmental permit display conditions in addition to any conditions that applied to it at the relevant time.
- (3) The regulator, if required to do so on the grounds of national security by any direction or guidance issued to it under these Regulations or under any other enactment—
- (a) must vary or revoke environmental permit display conditions or any similar environmental permit conditions that applied to an existing radioactive substances permit at the relevant time; or
  - (b) must not impose such conditions.
- (4) In this paragraph—
- “environmental permit display conditions” means a requirement that the operator—
- (a) keep copies of the permit posted on the premises, and
  - (b) post the permit in such characters and positions as to be conveniently read by persons who have duties on the premises which are or could be affected by the matters set out in the permit; and
- “existing radioactive substances permit” means—
- (a) an authorisation under section 13 or 14 of the 1993 Act, or
  - (b) a registration under section 7 of the 1993 Act.

## SCHEDULE 24

Regulation 46(1)

### Public registers

#### **Matters to be included in a public register**

- 1.—(1) A public register must contain a copy of—
- (a) every application for—
    - (i) the grant of an environmental permit,
    - (ii) the variation of an environmental permit,
    - (iii) the transfer of an environmental permit in whole or in part, or
    - (iv) the surrender of an environmental permit in whole or in part;
  - (b) every notice requesting further information under paragraph 4(1) of Part 1 of Schedule 5;
  - (c) all representations made in respect of an application for the grant or variation of an environmental permit;
  - (d) every environmental permit, variation, transfer in whole or in part, or surrender in whole or in part granted or made by the regulator;
  - (e) every determination or decision notified under paragraph 17(2)(a) of Part 1 of Schedule 5;

- (f) every prohibition notice, enforcement notice, revocation notice, suspension notice, landfill closure notice, mining waste facility closure notice or notice withdrawing such a notice served by the regulator;
  - (g) in relation to an appeal to an appropriate authority, every—
    - (i) notice of appeal,
    - (ii) document relating to the appeal,
    - (iii) representation made in respect of the appeal, and
    - (iv) determination of the authority, including any report accompanying that determination;
  - (h) all information obtained by the regulator—
    - (i) as a result of its own monitoring,
    - (ii) as a result of monitoring required under an environmental permit condition, or
    - (iii) under regulation 60 in relation to monitoring;
  - (i) all other information given to the regulator in compliance with—
    - (i) an environmental permit condition,
    - (ii) an enforcement notice,
    - (iii) a suspension notice,
    - (iv) a landfill closure notice,
    - (v) a mining waste facility closure notice, or
    - (vi) regulation 60;
  - (j) every report published by the regulator relating to an assessment of the environmental consequences of the operation of an installation;
  - (k) every direction given to the regulator or the exemption registration authority by an appropriate authority under these Regulations, other than a direction given under regulation 47 or paragraph 9 of Schedule 2.
- (2) A public register must also contain—
- (a) details of any conviction or formal caution for an offence under regulation 38 in respect of an environmental permit granted by the regulator or a failure to apply to the regulator for the grant of an environmental permit;
  - (b) an inventory of closed mining waste facilities as required under Article 20 of the Mining Waste Directive;
  - (c) a list identifying all waste incineration installations—
    - (i) which have a capacity of less than 2 tonnes per hour, and
    - (ii) whose operation is authorised by an environmental permit containing conditions which give effect to the Waste Incineration Directive; and
  - (d) details of—
    - (i) all fees and charges paid to a regulator within the meaning of regulation 65 pursuant to a scheme under that regulation, and
    - (ii) the total expenditure of that regulator in exercising its functions under these Regulations.
- (3) The regulator may omit any representation referred to in sub-paragraph (1) from its public register at the request of the person making the representation, but the regulator must then include in the public register a statement that a representation was made and was the subject of such a request.

(4) The regulator may omit from its public register any representation which substantially duplicates a representation already included in the public register, but the regulator must then include on the register a statement of the number of representations that have been omitted on this basis.

(5) If the regulator omits from its public register information referred to in sub-paragraph (1) (h) on the grounds that it is commercially or industrially confidential, the regulator must include in the public register a statement indicating whether or not there has been compliance with any environmental permit condition related to that information and requiring compliance with emission limit values.

(6) In this paragraph, “waste incineration installation” has the meaning given in Schedule 13.

### **Information no longer relevant for public participation**

2. A regulator is not required to keep in its public register information which is no longer relevant for the purposes of public participation required under these Regulations.

### **Formal cautions**

3. A regulator must remove details of any formal caution from its public register 5 years after the caution was given.

## SCHEDULE 25

Regulation 68

### Waste and extractive waste

## PART 1

### Interpretation

#### **Interpretation: general**

1.—(1) In this Schedule—

“authority” means—

- (a) an appropriate authority,
- (b) a planning authority;

“collection” has the meaning given in Article 1(g) of the Waste Framework Directive and excludes the disposal or recovery of the waste;

“collection point” means a place which is used for the collection of waste by an establishment or undertaking where the establishment or undertaking does not—

- (a) receive payment for collecting the waste, or
- (b) collect waste as its main business activity;

“development consent” means development consent under the Planning Act 2008(114);

“local planning authority” has the same meaning as in the Town and Country Planning Act 1990(115);

(114) 2008 c. 29.

(115) 1990 c. 8. Section 1 was amended by the Local Government (Wales) Act 1994, section 18(3) and (4), c. 19.

“mineral planning authority” has the same meaning as in section 1 of the Town and Country Planning Act 1990;

“place of production” means, in relation to any waste, the place where the waste was originally produced;

“plan making provisions” means—

- (a) paragraph 5 of Schedule 4 to the Waste Management Licensing Regulations 1994(**116**),
- (b) Part 2 of the Town and Country Planning Act 1990 insofar as it continues to have effect(**117**),
- (c) section 44A of the 1990 Act(**118**),
- (d) in relation to England, Parts 1 and 2 and Schedule 8 of the Planning and Compulsory Purchase Act 2004(**119**), and
- (e) in relation to Wales—
  - (i) Part 6 of the Planning and Compulsory Purchase Act 2004,
  - (ii) article 3(3) of the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005(**120**);

“the planning Acts” means—

- (a) the Town and Country Planning Act 1990,
- (b) the Planning (Listed Buildings and Conservation Areas) Act 1990(**121**),
- (c) the Planning (Hazardous Substances) Act 1990(**122**),
- (d) the Planning (Consequential Provisions) Act 1990(**123**),
- (e) the Planning and Compulsory Purchase Act 2004, and
- (f) the Planning Act 2008;

“planning authority” means—

- (a) a local planning authority,
- (b) a joint committee constituted under section 29 of the Planning and Compulsory Purchase Act 2004,
- (c) a person appointed under paragraph 1 of Schedule 6 to the Town and Country Planning Act 1990(**124**),
- (d) a government department in respect of its functions under the planning Acts,
- (e) the Secretary of State in respect of the Secretary of State’s functions under the planning Acts, or
- (f) the Infrastructure Planning Commission established under section 1 of the Planning Act 2008;

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(116) S.I. 1994/1056, amended by S.I. 1995/288, 1995/1950, 1996/593, 1996/634, 1996/972, 1996/1279, 1997/2203, 1998/606, 1998/2746, 2000/1973, 2002/674, 2002/1087 (W. 114), 2002/1559, 2002/2980, 2003/595, 2003/780 (W. 91), 2003/2635, 2004/70 (W. 6), 2004/3276, 2005/894, 2005/1728, 2005/1806 (W. 138), 2005/2900, 2006/937, 2006/3315, 2007/1156 and 2007/2596.

(117) Part 2 is repealed by the Planning and Compulsory Purchase Act 2004, section 120 and Schedule 9, but is saved for certain purposes in England by S.I. 2004/2202 and in Wales by S.I. 2005/2847 (W.118).

(118) Section 44A was inserted by the Environment Act 1995 (c. 25), section 92(1).

(119) 2004 c. 5.

(120) S.I. 2005/2847.

(121) 1990 c. 9.

(122) 1990 c. 10.

(123) 1990 c. 11.

(124) Paragraph 1 was amended by the Planning and Compensation Act 1991 (c. 34), section 32.

“planning permission” has the meaning given in section 336 of the Town and Country Planning Act 1990(**125**);

“specified functions” has the meaning given in paragraph 2 of this Part; and

“waste management plan” means a plan or other expression of strategy or policy in relation to waste management made under the plan making provisions.

(2) For the purposes of this Schedule, a container, lagoon or other place is secure in relation to waste kept in it if—

- (a) all reasonable precautions are taken to ensure that the waste cannot escape from it; and
- (b) members of the public are unable to gain access to the waste.

### **Interpretation: specified functions**

2.—(1) In this Schedule, “specified functions” means the following functions—

- (a) in the case of an appropriate authority, its functions under Part 2 of the Food and Environment Protection Act 1985(**126**);
- (b) in the case of a planning authority—
  - (i) determining an application for planning permission under section 70 of the Town and Country Planning Act 1990,
  - (ii) determining an appeal made under section 78 of that Act(**127**) in relation to a determination under sub-paragraph (i),
  - (iii) deciding whether to take action under section 141(2) or (3) or 177(1)(a) or (b) of the Town and Country Planning Act 1990(**128**), or under section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990,
  - (iv) deciding whether to direct under section 90(1), (2) or (2A) of the Town and Country Planning Act 1990(**129**) that planning permission must be deemed to be granted,
  - (v) deciding whether—
    - (aa) in making or confirming a discontinuance order, to include in the order any grant of planning permission, or
    - (bb) to confirm (with or without modifications) a discontinuance order insofar as it grants planning permission,and for the purposes of this sub-paragraph, “discontinuance order” means an order under section 102 of the Town and Country Planning Act 1990 (including an order made under that section by virtue of section 104 of that Act), or under paragraph 1 of Schedule 9 to that Act (including an order made under that paragraph by virtue of paragraph 11 of that Schedule)(**130**),
  - (vi) making a local development order under section 61A of the Town and Country Planning Act 1990(**131**),

(125) The definition of “planning permission” in section 336 was amended by the Planning and Compensation Act 1991, sections 32 and 84(6) and Schedules 7 and 19.

(126) 1985 c. 48.

(127) Section 78 was amended by the Planning and Compensation Act 1991 (c. 34), section 17(2) and the Planning and Compulsory Purchase Act 2004 (c. 5), sections 40(2)(e) and 43(2).

(128) Section 177 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and Schedule 7.

(129) Section 90(1) was amended by the Environment Act 1995 (c. 25), section 78 and Schedule 10; Section 90(2A) was inserted by the Transport and Works Act 1992 (c. 42), section 16(1).

(130) Section 102 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and Schedule 7; section 102 and paragraph 1 of Schedule 9 were amended by section 21 of, and Schedule 1 to, that Act.

(131) Section 61A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 40(1).

- (vii) discharging functions under Part 2 of the Town and Country Planning Act 1990, under Parts 1 and 2 of and Schedule 8 to the Planning and Compulsory Purchase Act 2004 in relation to England or under Part 6 of and Schedule 8 to the Planning and Compulsory Purchase Act 2004 in relation to Wales,
  - (viii) deciding whether to—
    - (aa) make a development consent order under section 104 or 105 of the Planning Act 2008(132), or
    - (bb) make changes to, or revoke, such an order under section 153 of that Act, other than in accordance with paragraph 2 of Schedule 6 to that Act.
- (2) But a function which must be discharged by statutory instrument is not a specified function.

## PART 2

### Requirements of authorities

#### **Exercise of specified functions: all waste operations**

- 1.—(1) Every authority must exercise its specified functions in relation to every waste operation—
- (a) for the purposes of implementing Article 4 of the Waste Framework Directive; and
  - (b) when exercising a function under the plan making provisions, for the purposes of implementing Article 3(1) of the Waste Framework Directive.
- (2) An appropriate authority must exercise its specified functions in relation to every waste operation so as to ensure that the records referred to in Article 14 of the Waste Framework Directive are kept and made available to it on request.

#### **Exercise of specified functions: disposal of waste**

- 2.—(1) Every authority must exercise its specified functions in relation to the disposal of waste—
- (a) for the purposes of implementing Article 5 of the Waste Framework Directive, ignoring the words “in cooperation with other Member States where this is necessary or advisable”;
  - (b) for the purposes of implementing, so far as material, any waste management plan.
- (2) An appropriate authority must exercise its specified functions in relation to the disposal of waste so as to ensure that the requirements in the second paragraph of Article 9(1) of the Waste Framework Directive are met.

#### **Periodic inspections**

3. Every authority must make appropriate periodic inspections of every establishment or undertaking carrying on a waste operation in relation to which it is required to exercise its specified functions under paragraph 1 or 2 of this Part.

#### **Requirements applying to planning authorities**

- 4.—(1) Nothing in paragraph 1 or 2 of this Part requires a planning authority to deal with a matter which an appropriate authority or a regulator has power to deal with.

(2) A planning authority must not grant planning permission or development consent for a landfill unless it has taken the requirements of paragraph 1.1 of Annex 1 to the Landfill Directive into consideration.

(3) A mineral planning authority must not grant planning permission for a mining waste facility to which Article 7 of the Mining Waste Directive applies unless it is satisfied that—

- (a) the operator of that facility will meet the requirements of Article 11(2)(a) of that Directive; and
- (b) the management of waste at that facility will not conflict directly or otherwise interfere with the implementation of the plan or plans referred to in Article 7(3)(b) of that Directive.

## PART 3

### Operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions

#### General

1.—(1) The descriptions in this Part are set out in the first sub-paragraph of each paragraph.

(2) The conditions for an operation of each description are set out in the second sub-paragraph of each paragraph.

#### Temporary storage at the place of production

2.—(1) The temporary storage of any waste at the place of production, pending its collection.

(2) For the purposes of this paragraph, the conditions are—

- (a) no waste is stored for longer than 12 months; and
- (b) the waste is stored in a secure place.

#### Temporary storage of waste at a place controlled by the producer

3.—(1) The temporary storage of any waste, pending its collection, at a place controlled by the producer of the waste.

(2) For the purposes of this paragraph, the conditions are—

- (a) the producer has control over the waste and the storage place;
- (b) the waste does not contain or consist of—
  - (i) unbonded asbestos, or
  - (ii) any substance with a flash point of less than 21 degrees Celsius;
- (c) the operation is not carried on in the course of providing a waste management service to another person;
- (d) the waste is stored in a secure place;
- (e) where more than one type of waste is stored, the types are not mixed;
- (f) no waste is stored for longer than 3 months;
- (g) in relation to non-liquid waste, the total quantity stored at any one time does not exceed 50 cubic metres; and
- (h) in relation to liquid waste—
  - (i) the total quantity stored at any one time does not exceed 1,000 litres,

- (ii) the waste is stored in a container with secondary containment.

### Temporary storage at a collection point

4.—(1) The temporary storage of waste at a collection point for the purposes of recovering or disposing of the waste elsewhere.

- (2) For the purposes of this paragraph, the conditions are that—
- (a) the waste does not contain or consist of—
    - (i) asbestos,
    - (ii) any substance with a flash point of less than 21 degrees Celsius;
  - (b) the waste is stored in a secure container;
  - (c) where more than one type of waste is stored, the types are not mixed;
  - (d) in relation to WEEE, the total quantity of waste stored at any one time does not exceed 30 cubic metres;
  - (e) in relation to non-hazardous waste that —
    - (i) is not WEEE, and
    - (ii) is to be recovered elsewhere,
 the total quantity of waste stored any one time does not exceed 50 cubic metres; and
  - (f) in relation to waste not covered by paragraph (d) or (e), the total quantity of waste stored at any one time does not exceed 5 cubic metres.

## SCHEDULE 26

Regulation 107

### Consequential amendments

## PART 1

### Public General Acts

#### Continental Shelf Act 1964

1. In section 7 of the Continental Shelf Act 1964(**133**)(radioactive substances)—
- (a) for “and any orders and regulations made thereunder” substitute “(and any orders and regulations made thereunder), or for the purposes of the Environmental Permitting (England and Wales) Regulations 2010,”; and
  - (b) after “modifying the provisions of that Act” insert “or those Regulations”.

#### Nuclear Installations Act 1965

- 2.—(1) The Nuclear Installations Act 1965(**134**) is amended as follows.
- (2) In section 3(6A)(**135**) (consultation before variation of nuclear site licences)—

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(133) 1964 c. 29; section 7 was amended by the Radioactive Substances Act 1993 (c. 12), Schedule 4, paragraph 1.

(134) 1965 c. 57.

(135) Subsection (6A) was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 7(1).

- (a) for “Great Britain” substitute “England or Wales”; and
  - (b) for “the Radioactive Substances Act 1993” substitute “the Environmental Permitting (England and Wales) Regulations 2010”.
- (3) In section 4 (attachment of conditions to licences)—
- (a) in subsection (1)(d)(**136**), for “sections 13 and 16 of the Radioactive Substances Act 1993” substitute “the Environmental Permitting (England and Wales) Regulations 2010”;
  - (b) in subsection (3A)(**137**)—
    - (i) for “Great Britain” substitute “England or Wales”, and
    - (ii) for “the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

### **Control of Pollution Act 1974**

**3.** In section 30(5) of the Control of Pollution Act 1974 (power to apply Part 1 of that Act to radioactive waste)(**138**)—

- (a) for “the Radioactive Substances Act 1960” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”; and
- (b) in paragraph (b), for “the said Act of 1960 and any other Act” substitute “the Radioactive Substances Act 1993, the Environmental Permitting (England and Wales) Regulations 2010 and any other enactment”.

### **Salmon and Freshwater Fisheries Act 1975**

**4.** In section 5 of the Salmon and Freshwater Fisheries Act 1975 (prohibition of use of explosives etc)(**139**), for subsection (5)(c) substitute—

“(c) regulation 38(1) of the Environmental Permitting (England and Wales) Regulations 2010;”.

### **Environmental Protection Act 1990**

**5.**—(1) The 1990 Act(**140**) is amended as follows.

(2) In section 28(2)(**141**) (authorisations)—

- (a) for “a registration or authorisation under the Radioactive Substances Act 1993” substitute “an environmental permit granted under the Environmental Permitting (England and Wales) Regulations 2010 in relation to a radioactive substances activity within the meaning of those Regulations”; and
- (b) for “registration or authorisation under that Act” substitute “environmental permit”.

(3) In section 29 (waste on land: preliminary)(**142**), for subsection (12) substitute—

“(12) “The Environmental Permitting Regulations” means the Environmental Permitting (England and Wales) Regulations 2010.”

(136) Subsection (1)(d) was amended by the Radioactive Substances Act 1993 (c. 12), Schedule 4, paragraph 2.

(137) Subsection (3A) was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 8.

(138) 1974 c. 40. Section 30 was prospectively repealed by the Environmental Protection Act 1990 (c. 43), section 162 and Schedule 16, Part 2, on a date to be appointed.

(139) 1975 c. 51.

(140) 1990 c 43.

(141) Section 28(2) was amended by the Radioactive Substances Act 1993 (c. 12), Schedule 4, paragraph 6, and prospectively repealed by the Pollution, Prevention and Control Act 1999 (c. 24), Schedule 3, on a date to be appointed.

(142) Section 29 was amended by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 51 and S.I. 2007/3538 and 2009/1799.

(4) In the following sections, for “the 2007 Regulations” substitute “the Environmental Permitting Regulations”—

- (a) section 29(13) (waste on land: preliminary);
- (b) section 34(1)(aa), (1)(c)(ii)(**143**) and (1A)(b) (duty of care etc as respects waste);
- (c) section 59(1) and (7) (powers to require removal of waste unlawfully deposited)(**144**);
- (d) section 59ZA(2) (section 59: supplementary power)(**145**).

(5) For section 33(1B) (exceptions to prohibition on unauthorised disposal of waste)(**146**) substitute—

“(1B) Subsection (1) does not apply in relation to the carrying on of any waste operation which is or forms part of an operation which—

- (a) is the subject of a licence under Part 2 of the Food and Environment Protection Act 1985; or
- (b) by virtue of an order under section 7 of that Act, does not require such a licence;”.

(6) In the following sections, for “regulation 38(1)(a) of the 2007 Regulations” substitute “regulation 38(1) of the Environmental Permitting Regulations”—

- (a) section 33A(1)(b) (section 33 offences: investigation and enforcement costs)(**147**);
- (b) section 33B(1)(b) (section 33 offences: clean-up costs)(**148**);
- (c) section 33C(1)(b) (section 33 offences: forfeiture of vehicles)(**149**).

(7) In section 33C(7)(d), for “regulation 38(1)(a) or 38(1)(b) of the 2007 Regulations” substitute “regulation 38(1) or (2) of the Environmental Permitting Regulations”.

(8) In section 34B(2)(a) and (3)(a) (power to search and seize vehicles etc)(**150**), for “regulation 38(1)(a) or (b) of the 2007 Regulations” substitute “regulation 38(1) or (2) of the Environmental Permitting Regulations”.

(9) In section 78 (radioactive substances)—

- (a) for “the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting Regulations (radioactive substances activities)”; and
- (b) in paragraph (b), for “the Radioactive Substances Act 1993 and any other Act” substitute “the Environmental Permitting Regulations in relation to such radioactive waste, and any Act or other enactment.”.

(10) In section 78YB (interaction with other enactments)(**151**)—

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(**143**) Section 34 was amended by the Deregulation and Contracting Out Act 1994 (c. 40), section 33, and the Environment Act 1995 (c. 25), section 120 and Schedule 22, and by S.I. 1999/1820, 2000/1973, 2005/2900, 2006/123, 2007/3538 and 2009/1799.

(**144**) Section 59 was amended by the Clean Neighbourhoods and Environment Act 2005 (c. 16), sections 43(2) and 50(1) and S.I. 2007/3538 and 2009/1799.

(**145**) Section 59ZA was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 50(2) and amended by S.I. 2007/3538.

(**146**) Section 33 was amended by the Environment Act 1995 (c. 25), section 120 and Schedule 22, the Clean Neighbourhoods and Environment Act 2005 (c. 16), sections 40(1), 41(1), 107 and Schedule 5, and S.I. 2005/894, 2006/937, 2007/3538 and 2009/1799.

(**147**) Section 33A was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 42(1) and amended by S.I. 2007/3538 and 2009/1799.

(**148**) Section 33B was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 43(1) and amended by S.I. 2006/937, 2007/3538 and 2009/1799.

(**149**) Section 33C was inserted by the Clean Neighbourhoods Act 2005 (c. 16), section 44(1) and amended by S.I. 2006/937 and 2007/3538.

(**150**) Section 34B was inserted by the Clean Neighbourhoods and Environment Act (c. 16), section 46(1) and amended by S.I. 2007/3538.

(**151**) Section 78YB was inserted by the Environment Act 1995 (c. 25), section 57, and amended by the Water Act 2003 (c. 37), section 86 and S.I. 2000/1973 and 2007/3538.

- (a) in subsection (4), for “a consent given under Chapter II of Part III of the Water Resources Act 1991 (pollution offences)” substitute “an environmental permit”; and
- (b) in subsection (5)(152), in the definition of “enforcement action”, for “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting (England and Wales) Regulations 2010”.

(11) In section 78YC (radioactivity)(153), in paragraph (b), for “the Radioactive Substances Act 1993 or any other Act” substitute “the Environmental Permitting (England and Wales) Regulations 2010 or any Act or other enactment”.

(12) In section 142(7) (powers to obtain information about potentially hazardous substances), for “the Radioactive Substances Act 1993;” substitute “the Environmental Permitting (England and Wales) Regulations 2010 in relation to radioactive material or radioactive waste;”.

(13) In section 156(2) (power to give effect to Community and other international obligations etc) omit “; and the provisions of the Radioactive Substances Act 1993”.

### **Atomic Weapons Establishment Act 1991**

**6.** In the Schedule to the Atomic Weapons Establishment Act 1991 (application of certain enactments)(154)—

- (a) omit paragraph 10A (Radioactive Substances Act 1993)(155) and the cross-heading preceding it; and
- (b) after paragraph 10B(156) insert—  
“*Environmental Permitting (England and Wales) Regulations 2010*”

**10C.**—(1) For the purposes of the Environmental Permitting (England and Wales) Regulations 2010, so far as relating to an environmental permit for the disposal of radioactive waste, a relevant site in designated premises shall be treated as a site in respect of which a nuclear site licence is for the time being in force.

(2) For the purposes of sub-paragraph (1), “relevant site” means a site used by a contractor for the purposes of any activity which would, if section 1 of the Nuclear Installations Act 1965 applied to the site, require a nuclear site licence.”

### **Water Industry Act 1991**

**7.** In section 138(1B)(157) of the Water Industry Act 1991 (meaning of “special category effluent”)(158)—

- (a) in paragraph (a), for “the Environmental Permitting (England and Wales) Regulations 2007 (“the 2007 Regulations”)” substitute “the Environmental Permitting (England and Wales) Regulations 2010”; and
- (b) in paragraphs (aa) and (b), for “the 2007 Regulations” substitute “those Regulations”.

### **Water Resources Act 1991**

**8.**—(1) The 1991 Act(159) is amended as follows.

(152) Subsection (5) was inserted by [S.I. 2007/3538](#), Schedule 21, paragraphs 2 and 18(b).

(153) Section 78YC was inserted by the Environment Act 1995 (c. 25), section 57.

(154) 1991 c. 46.

(155) Paragraph 10A was inserted by the Radioactive Substances Act 1993 (c. 12), section 49(1) and Schedule 4, paragraph 10.

(156) Paragraph 10B was inserted by the Clean Air Act 1993 (c. 11), section 67(1) and Schedule 4, paragraph 5.

(157) Subsection (1B) was inserted by [S.I. 2000/1973](#), regulation 39 and Schedule 10.

(158) 1991 c. 56.

(159) 1991 c. 57. Section 88(1) was amended by [S.I. 2000/1973](#). Sections 91, 161 and 203 were amended by the Environment Act 1995 (c. 25) section 120 and Schedule 22. Section 161 was also amended by section 60 of that Act. Section 203 was also

- (2) Omit the following provisions—
- (a) section 85 (offences of polluting controlled waters);
  - (b) section 86 (prohibition of certain discharges);
  - (c) section 87 (discharges into and from public sewers);
  - (d) section 88 (defence to principal offences: authorised discharges);
  - (e) section 89 (other defences to principal offences);
  - (f) section 90 (offences: deposits and vegetation in rivers);
  - (g) section 90A (applications for consent under section 89 or 90)(**160**);
  - (h) section 90B (enforcement notices)(**161**);
  - (i) section 91 (appeals: consents under Chapter 2 of Part 3);
  - (j) section 96(3) (regulations: consents under Chapter 2 of Part 3);
  - (k) section 99 (consents required by the Agency);
  - (l) section 103 (transitional pollution provisions);
  - (m) section 161ZC(5) (sections 161 to 161ZB: supplementary)(**162**);
  - (n) section 161AB(4) (works notices: exceptions etc)(**163**);
  - (o) section 190(1)(b), (c), (g), (h), (j), (k), (m) and (n) and (5) (pollution control register);
  - (p) section 191B(2)(a), (2)(b) and (12) (exclusion from register: confidential information)(**164**);
  - (q) Schedule 10 (discharge consents);
  - (r) Schedule 13 (transitional water pollution provisions).
- (3) In the following provisions, for each reference to “consent” substitute “environmental permit”—
- (a) section 74(1)(e) and (2)(g) (provisions and duration of ordinary drought order);
  - (b) section 77(3)(b) and (5)(a) (provisions of drought order: abstractions and discharges);
  - (c) in Schedule 8 (proceedings on applications for drought orders), in paragraph 1(2), paragraph (d) of the third item in the table;
  - (d) in Schedule 9 (compensation in respect of drought orders), paragraphs 2(5) and 4(1)(d).
- (4) In section 84 (general duties to achieve and maintain objectives)—
- (a) in subsection (1), after “below)” insert “and by the Environmental Permitting Regulations”;
  - (b) in subsection (2), after “this Act” insert “or under the Environmental Permitting Regulations”.
- (5) In section 92(2)(c), for each reference to “subsection (6) of section 85 above” substitute “regulation 39(1) of the Environmental Permitting Regulations”.
- (6) In section 97(2) (codes of good agricultural practice), for paragraph (a) substitute—
- “(a) its relevant functions, in relation to water discharge activities, under the Environmental Permitting Regulations;”.

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amended by the Water Act 2003 (c. 37), section 101 and Schedule 8. Sections 90A, 90B, 91(2G), 161A, 161B and 191B were inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22.

(160) Section 90A was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 142.

(161) Section 90B was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 142.

(162) Section 161ZC(5) was inserted by S.I. 2009/3104.

(163) Section 161AB(4) was inserted by S.I. 2009/3104.

(164) Section 191B was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 170.

- (7) In section 98 (radioactive substances)—
- (a) in subsection (1), for “the Radioactive Substances Act 1993” substitute “the Environmental Permitting Regulations”; and
  - (b) in subsection (2), for “the said Act of 1993” substitute “the Environmental Permitting Regulations”.
- (8) In the following sections, for each reference to “a consent given under Chapter II of Part III of this Act” substitute “an environmental permit”—
- (a) section 161ZC(1) (sections 161 to 161ZB: supplementary)(**165**);
  - (b) section 161AB(1) (works notices: exceptions etc)(**166**).
- (9) In section 191B (exclusion from registers of confidential information)(**167**), for subsection (6) substitute—
- “(6) Section 114 of the 1995 Act (delegation or reference to appeals etc) applies to any appeal brought under subsection (5).
- (6A) If either party to the appeal so requests, or the Secretary of State or Welsh Ministers so decide, an appeal shall be or continue in the form of a hearing (which must be held in private).
- (6B) The Secretary of State may by regulations make provision as to appeals under subsection (5) to the Secretary of State, and the Welsh Ministers may by regulations make provision as to appeals under that subsection to them; and the regulations may, in particular, may make provision as to—
- (a) the period within which and the manner in which appeals are to be brought; and
  - (b) the manner in which appeals are to be considered.”
- (10) In section 221 (general interpretation)—
- (a) at the appropriate place, insert—
    - ““environmental permit” has the same meaning as in the Environmental Permitting Regulations;
    - “Environmental Permitting Regulations” means the Environmental Permitting (England and Wales) Regulations 2010;”; and
  - (b) omit the definition of “enforcement notice”.
- (11) In Schedule 9, in paragraph 4(2)(c), for “a consent” substitute “an environmental permit”.

### **Water Consolidation (Consequential Provisions) Act 1991**

- 9.** In paragraph 30(1) of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (offences under the Salmon and Freshwater Fisheries Act 1975)(**168**)—
- (a) in paragraph (a), for “a consent under Chapter II of Part III of the Water Resources Act 1991 or” substitute “an environmental permit under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2010 or a consent”; and
  - (b) in paragraph (b), after “such a” insert “permit or”.

(165) Section 161ZC(1) was inserted by S.I. 2009/3104.

(166) Section 161AB(1) was inserted by S.I. 2009/3104.

(167) Section 191B was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 170.

(168) 1991 c. 60.

### Clean Air Act 1993

**10.**—(1) Section 41A of the Clean Air Act 1993 (relation to the Pollution Prevention and Control Act 1999)(**169**) is amended as follows.

(2) In subsection (2)(c)(**170**), for “paragraph 4 of Schedule 2 to the 2007 Regulations” substitute “paragraph 7 of Schedule 2 (exempt facilities: general) to the Environmental Permitting Regulations”.

(3) In subsection (3), for “the 2007 Regulations” substitute “the Environmental Permitting Regulations”.

(4) In subsection (4)(**171**)—

(a) in the definition of “activity”, for “within the meaning of the 2007 Regulations” substitute “, or mining waste operation, within the meaning of the Environmental Permitting Regulations;”; and

(b) for the definition of “the 2007 Regulations” substitute—

““the Environmental Permitting Regulations” means the Environmental Permitting (England and Wales) Regulations 2010.”

### Radioactive Substances Act 1993

**11.**—(1) The 1993 Act(**172**) is amended as follows.

(2) Omit the following provisions—

(a) section 1 (meaning of “radioactive material”);

(b) section 2 (meaning of “radioactive waste”);

(c) section 3 (meaning of “mobile radioactive apparatus”);

(d) section 6 (prohibition of use of radioactive material without registration);

(e) section 7 (registration of users of radioactive material);

(f) section 8(1) to (3) and (8) (exemptions from registration under section 7);

(g) section 9 (prohibition of use of mobile radioactive apparatus without registration);

(h) section 10 (registration of mobile radioactive apparatus);

(i) section 11(3) (application of exemptions to Northern Ireland);

(j) section 12 (cancellation and variation of registration);

(k) section 13 (disposal of radioactive waste);

(l) section 14 (accumulation of radioactive waste);

(m) section 15(3) (application of exemptions to Northern Ireland);

(n) section 16 (grant of authorisations);

(o) section 16A (transfer of authorisations);

(p) section 17 (revocation and variation of authorisations);

(q) section 17A (review of authorisations);

(r) section 18 (functions of authorities in relation to authorisations under section 13);

(s) section 19 (duty to display documents);

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(**169**)1993 c. 11. Section 41A was inserted by S.I. 2000/1973 and amended by S.I. 2007/3538 and 2009/1799.

(**170**)Subsection 2(c) was inserted by S.I. 2007/3538, Schedule 21, paragraph 22(2).

(**171**)Subsection (4) was inserted by S.I. 2007/3538, Schedule 21, paragraph 22(1) and (4) and amended by S.I. 2009/1799, regulation 28 and Schedule 2, paragraph 3.

(**172**)1993 c. 12.

- (t) section 20 (retention and production of site or disposal records);
  - (u) section 21 (enforcement notices);
  - (v) section 22 (prohibition notices);
  - (w) section 23 (power of Secretary of State to give directions);
  - (x) section 24 (power of Secretary of State to require certain applications to be determined by him);
  - (y) section 25 (power of Secretary of State to restrict knowledge of applications);
  - (z) section 26 (registrations, authorisations and notices: appeals);
  - (aa) section 27 (procedure on appeals under section 26);
  - (bb) section 29 (provision of facilities for disposal or accumulation of radioactive waste);
  - (cc) section 30 (power of Secretary of State to dispose of radioactive waste);
  - (dd) section 30A (recovery and disposal of orphan sources);
  - (ee) section 32 (offences relating to registration or authorisation);
  - (ff) section 33 (offences relating to sections 19 and 20);
  - (gg) section 34 (disclosure of trade secrets);
  - (hh) section 34A (offences of making false or misleading statements or false entries);
  - (ii) section 36 (offences by body corporate);
  - (jj) section 37 (offence due to another's fault);
  - (kk) section 38 (restriction on prosecutions);
  - (ll) section 39 (public access to documents and records);
  - (mm) section 41 (service of documents);
  - (nn) section 42 (application to Crown);
  - (oo) section 44(2) (power to make Regulations in relation to registrations or authorisations: Great Britain);
  - (pp) section 45 (Regulations and orders: Northern Ireland);
  - (qq) section 46 (effect of Act on other rights and duties);
  - (rr) section 48 (index of defined expressions);
  - (ss) Schedule 1 (specified elements);
  - (tt) in Schedule 3, Parts II and III (application of section 40 to Scotland and Northern Ireland);
  - (uu) Schedule 6 (repeals and revocations).
- (3) In section 8 (the title to which becomes "Exemptions from requirement for environmental permit")—
- (a) in subsections (4) and (5), for "registration under section 7" substitute "the requirement for an environmental permit";
  - (b) in subsection (6), for "registration under section 7" substitute "the requirement for an environmental permit".
- (4) In section 11 (the title to which becomes "Exemptions from requirement for environmental permit for mobile radioactive apparatus"), in subsection (1), for "registration under section 10" substitute "the requirement for an environmental permit".
- (5) In section 15 (the title to which becomes "Further exemptions from requirement for environmental permit")—

- (a) in subsection (1), for “Sections 13(1) and (3) and 14(1)” substitute “The requirement for an environmental permit”;
- (b) in subsection (1), for “operation of section 13(1) or section 14(1)” substitute “requirement for an environmental permit”;
- (c) in subsection (2)—
  - (i) for “any of the provisions of section 13 or 14” substitute “the requirement for an environmental permit”;
  - (ii) for “such of those provisions as may be specified in an order under this subsection” substitute “that requirement”; and
  - (iii) for “so specified” substitute “specified in an order under this subsection”.
- (6) For section 47 (general interpretation provisions) substitute—

**“General interpretation provisions**

**47.—(1)** In this Act—

“environmental permit” means a permit granted under regulation 13 of the Environmental Permitting Regulations;

“the Environmental Permitting Regulations” means the Environmental Permitting (England and Wales) Regulations 2010;

“local authority” has the same meaning as in the Environmental Permitting Regulations;

“relevant water body” means a water undertaker, a sewerage undertaker or a local fisheries committee.

(2) The following have the same meaning as in Schedule 23 to the Environmental Permitting Regulations (radioactive substances activities)—

“article”;

“disposal”;

“mobile radioactive apparatus”;

“premises”;

“radioactive material”;

“radioactive waste”;

“substance”;

“undertaking”.

(7) Schedule 3 is amended as follows—

(a) in paragraph 9, omit “85, 86, 87(1), 88(2)”;

(b) after paragraph 10, insert—

“**10A.** The Environmental Permitting Regulations, insofar as they relate to water discharge activities within the meaning of those Regulations.”

**Goods Vehicles (Licensing of Operators) Act 1995**

**12.** In the Goods Vehicles (Licensing of Operators) Act 1995(**173**), in Schedule 2 (information about applicants and holders of licences), in paragraph 5(ia)(**174**) (offences), for “regulation 38(1)

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(173) 1995 c 23.

(174) Paragraph 5(ia) was inserted by S.I. 2007/3538, Schedule 21, paragraph 24.

(a) or 38(1)(b) of the Environmental Permitting (England and Wales) Regulations 2007” substitute “regulation 38(1) or (2) of the Environmental Permitting (England and Wales) Regulations 2010”.

### **Environment Act 1995**

**13.**—(1) The 1995 Act(**175**) is amended as follows.

(2) In section 5(5) (pollution control functions), omit paragraph (h).

(3) In section 42 (approval of charging schemes), for subsection (3)(b) substitute—

“(b) which the Food Standards Agency incurs in carrying out its functions in relation to environmental permits under the Environmental Permitting (England and Wales) Regulations 2010 concerning the disposal of radioactive waste within the meaning of those Regulations,”.

(4) In section 56(1) (interpretation of Part 1), in the definition of “environmental licence”, omit paragraphs (e), (f) and (g).

(5) In section 108(15) (powers of enforcing authorities and persons authorised by them), in the definition of “pollution control functions”, omit paragraph (l).

(6) In section 114(2)(a) (power to delegate appeal functions)—

(a) in sub-paragraph (v), omit “91,”; and

(b) omit sub-paragraph (vi).

(7) In Schedule 20 (delegation of appellate functions), in paragraph 4(3) (holding of local enquiries), for paragraph (d) substitute—

“(d) regulation 53 of the Environmental Permitting (England and Wales) Regulations 2010,”.

### **Finance Act 1996**

**14.** In section 43A(4)(h) of the Finance Act 1996 (contaminated land)(**176**), for “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting (England and Wales) Regulations 2010”.

### **Food Standards Act 1999**

**15.** In the Food Standards Act 1999(**177**), in Schedule 3 (the Agency’s functions under other enactments), omit paragraph 21 and the cross-heading preceding it.

### **Finance Act 2000**

**16.** In Schedule 6 to the Finance Act 2000 (climate change levy)(**178**), in paragraph 51(6), in the definition of “primary activity”, in the table (the cross-heading preceding entry 1 of which becomes “Installations regulated under the Environmental Permitting (England and Wales) Regulations 2010”)—

(a) in entry 5(1), for “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting (England and Wales) Regulations 2010”; and

(175) 1995 c 25. Section 56(1) was amended by the Pollution Prevention and Control Act 1999 (c. 24), section 6(1) and Schedule 2, and by S.I. 2000/1973, 2005/925, 2005/1728 and 2006/3289. Paragraph 4 of Schedule 20 was amended by S.I. 2000/1973.

(176) 1996 c. 8. Section 43A was inserted by S.I. 1996/1529, amended by S.I. 2000/1973 and 2005/3226 and substituted by S.I. 2007/3538, Schedule 21, paragraph 25. It has been prospectively repealed by S.I. 2008/2669, with the repeal to come into force on 1st April 2012.

(177) 1999 c 28.

(178) 2000 c 17. Paragraph 51 of Schedule 6 was amended by S.I. 2001/1139 and 2006/1848.

- (b) in entry 5(2)(a), for “regulation 3(2) of the Environmental Permitting (England and Wales) Regulations 2007” substitute “paragraph 1 of Part 1 of Schedule 1 to the Environmental Permitting (England and Wales) Regulations 2010”.

#### **Energy Act 2004**

17.—(1) The Energy Act 2004(179) is amended as follows.

(2) In section 10 (powers of NDA for carrying out functions), in subsection (2)(b), for the words from “, registrations” to the end substitute “and environmental permits (within the meaning of the Environmental Permitting (England and Wales) Regulations 2010) that relate to radioactive material or radioactive waste (within the meaning of those Regulations);”.

(3) In section 37(7) (general interpretation of Chapter 1 of Part 1), in the definition of “radioactive waste”, for “the 1993 Act” substitute “the Environmental Permitting (England and Wales) Regulations 2010”.

(4) In section 196(1), omit the definition of “the 1993 Act”.

#### **Income Tax (Trading and Other Income) Act 2005**

18. In section 167 of the Income Tax (Trading and Other Income) Act 2005 (site preparation expenditure: supplementary)(180), in subsection (1), in the definition of “waste disposal licence”, omit paragraph (d).

#### **Energy Act 2008**

19. In section 59(2)(d) of the Energy Act 2008 (offence of further disclosure of information)(181), for “the Radioactive Substances Act 1993 (c 12)” substitute “the Environmental Permitting (England and Wales) Regulations 2010 in relation to radioactive material and radioactive waste within the meaning of those Regulations”.

#### **Corporation Tax Act 2009**

20. In section 144(1) of the Corporation Tax Act 2009 (site preparation expenditure: supplementary)(182), omit paragraph (d).

## **PART 2**

### **Subordinate legislation**

#### **The Regulations as to Cremation (1930)**

1. In the definitions in the Regulations as to Cremation (1930)(183)—

- (a) in the definition of “Incinerated”, for “2007” substitute “2010”; and  
(b) in the definition of “Permit”, for “2007” substitute “2010”.

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(179)2004 c. 20.

(180)2005 c. 5.

(181)2008 c 32.

(182)2009 c 4.

(183)S.I. 1930/1016; relevant amending instruments are S.I. 2006/92 and 2007/3538.

### **The Deposits in the Sea (Exemptions) Order 1985**

2. In article 4(2) of the Deposits in the Sea (Exemptions) Order 1985 (exemptions involving waste)(**184**), for “2007” substitute “2010”.

### **The Town and Country Planning (Use Classes) Order 1987**

3. In article 3 of the Town and Country Planning (Use Classes) Order 1987 (use classes)(**185**), for paragraph (8) substitute—

“(8) For the purpose of paragraph (7), “radioactive material” and “radioactive waste” have the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010.”.

### **The Civil Jurisdiction (Offshore Activities) Order 1987**

4.—(1) The Civil Jurisdiction (Offshore Activities) Order 1987(**186**) is amended as follows.

(2) In article 4 (the title to which becomes “Application of the Wireless Telegraphy Act 1949, the Radioactive Substances Act 1993 and the Environmental Permitting (England and Wales) Regulations 2010”)—

- (a) for “the Radioactive Substances Act 1960 and” substitute “the Radioactive Substances Act 1993,”; and
- (b) after “therein”, insert “and the Environmental Permitting (England and Wales) Regulations 2010 (to the extent those Regulations apply to radioactive substances activities within the meaning of Schedule 23 to those Regulations),”.

### **The Radioactive Substances (Hospitals) Exemption Order 1990**

5. In article 2(1) of the Radioactive Substances (Hospitals) Exemption Order 1990 (interpretation)(**187**), in the definition of “site licence”, for “2007” substitute “2010”.

### **The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991**

6.—(1) The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(**188**) are amended as follows.

(2) In regulation 6(1)(g) (registration as a carrier), for “2007” substitute “2010”.

(3) In the list in Schedule 1 (prescribed offences: relevant enactments), for “The Environmental Permitting (England and Wales) Regulations 2007” substitute “The Environmental Permitting (England and Wales) Regulations 2010”.

### **The Environmental Protection (Duty of Care) Regulations 1991**

7.—(1) The Environmental Protection (Duty of Care) Regulations 1991(**189**) are amended as follows.

(2) In regulation 1(2) (interpretation), for the definition of “the 2007 Regulations” substitute—

(184) S.I. 1985/1699; relevant amending instruments are S.I. 1994/1056 and 2007/3538.

(185) S.I. 1987/764, amended, in relation to Wales, by S.I. 2002/1875; there are other amending instruments but none is relevant.

(186) S.I. 1987/2197.

(187) S.I. 1990/2512, amended by S.I. 2000/1973; there are other amending instruments but none is relevant.

(188) S.I. 1991/1624, amended by S.I. 2000/1973; there are other amending instruments but none is relevant.

(189) S.I. 1991/2839; relevant amending instruments are S.I. 1996/972, 2000/1973, 2002/1559, 2005/894, 2005/895, 2005/1806 (W. 138), 2005/1820 (W. 148) and 2007/3538.

““the Environmental Permitting Regulations” means the Environmental Permitting (England and Wales) Regulations 2010,”.

(3) For the table in regulation 2(2) (transfer notes) substitute—

“TABLE

<i>Category of person</i>	<i>Additional information</i>
A waste collection authority for the purposes of Part 2 of the 1990 Act	
The holder of an environmental permit in respect of a waste operation under the Environmental Permitting Regulations, excluding the holder of such a permit in respect of a Part A activity or Part B activity which is not a specified waste management activity within the meaning of paragraph 3 of Schedule 9 to those Regulations	If the waste is to be kept, treated or disposed of by that person, the relevant permit number and the name of the permitting regulator.
A person carrying on an exempt waste operation under the Environmental Permitting Regulations	
A person carrying on an operation to which section 33(1)(a) of the 1990 Act does not apply by virtue of regulation 68(2) of the Environmental Permitting Regulations	
A person registered as a carrier of controlled waste under Regulations made under section 2 of the Control of Pollution (Amendment) Act 1989	The name of the waste regulation authority with whom the person is registered and the person’s registration number
A person who is not required to be so registered by virtue of Regulations made under section 1(3) of that Act”	

### **The Controlled Waste Regulations 1992**

8.—(1) The Controlled Waste Regulations 1992(**190**) are amended as follows.

(2) In regulation 1(2) (interpretation), for “2007” substitute “2010”.

(3) In paragraph 18(2) of Schedule 3 (waste to be treated as industrial waste), for the definition of “tank washings” substitute—

““tank washings” means waste residues from the tanks (other than the fuel tanks) or holds of a ship or waste arising from the cleaning of such tanks or holds;”.

### **The Waste Management Licensing Regulations 1994**

9.—(1) The Waste Management Licensing Regulations 1994(**191**) are amended as follows.

(2) In regulation 20(2) (registration of brokers)—

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(190) S.I. 1992/588; relevant amending instruments are S.I. 1994/1056, 1996/972, 2006/937 and 2007/3538.

(191) S.I. 1994/1056, amended by S.I. 1995/288, 1995/1950, 1996/593, 1996/634, 1996/972, 1996/1279, 1997/2203, 1998/606, 1998/2746, 2000/1973, 2002/674, 2002/1087 (W. 114), 2002/1559, 2002/2980, 2003/595, 2003/780 (W. 91), 2003/2635, 2004/70 (W. 6), 2004/3276, 2005/894, 2005/1728, 2005/1806 (W. 138), 2005/2900, 2006/937, 2006/3315, 2007/1156, 2007/2596 and 2007/3476.

- (a) in sub-paragraph (a), for “the Environmental Permitting (England and Wales) Regulations 2007, a consent under Chapter 2 of Part 3 of the Water Resources Act 1991” substitute “the Environmental Permitting (England and Wales) Regulations 2010”; and
  - (b) in sub-paragraph (b)(i), for “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting (England and Wales) Regulations 2010”.
- (3) In paragraph 1 of Part 1 of Schedule 4 (waste framework directive etc), for the definition of “permit” substitute—
- ““permit” means an environmental permit under the Environmental Permitting (England and Wales) Regulations 2010 or a licence under Part 2 of the Food and Environment Protection Act 1985;”.
- (4) In paragraph 1 of Part 1 of Schedule 5 (registration of brokers of controlled waste), in the definition of “relevant offence”, for “2007” substitute “2010”.

#### **The Urban Waste Water Treatment Regulations 1994**

- 10.**—(1) The Urban Waste Water Treatment Regulations 1994(**192**) are amended as follows.
- (2) In regulation 2 (interpretation), at the appropriate place, insert—
- ““environmental permit” has the same meaning as in the Environmental Permitting Regulations;
- “Environmental Permitting Regulations” means the Environmental Permitting Regulations (England and Wales) Regulations 2010;”.
- (3) In regulation 6 (discharges of treated urban waste water)—
- (a) in paragraph (2), for “Chapter II of Part III of the Water Resources Act 1991 (pollution offences)” substitute “the Environmental Permitting Regulations”;
  - (b) in paragraph (2)(d)(ii), for “consents under the said Chapter II is controlled by such consents” substitute “environmental permits under the Environmental Permitting Regulations is controlled by such permits”;
  - (c) omit paragraph (4); and
  - (d) in paragraph (5), for “section 85 of that Act (offences of polluting controlled waters) insofar as that section relates” substitute “the Environmental Permitting Regulations insofar as they relate”.
- (4) In regulation 8 (discharges of certain industrial waste water)—
- (a) for paragraph (2) substitute—
- “(2) The Environment Agency must impose, in every environmental permit with respect to any discharge on or after 31st December 2000 to which this regulation applies, conditions which are appropriate to the nature of the industry concerned for the discharge of such waste water.”;
- (b) omit paragraph (3); and
  - (c) in paragraph (4), for “paragraphs (2) and (3)” substitute “paragraph (2)”.
- (5) In regulation 10 (samples and records)—
- (a) in paragraph (1)(a), for “a consent under Chapter II of Part III of the Water Resources Act 1991” substitute “an environmental permit”;
  - (b) for paragraph (1)(b) substitute—

- “(b) “the operator” has the meaning given in the Environmental Permitting Regulations”;
- (c) in paragraph (3), for “Chapter II of Part III of the Water Resources Act 1991” substitute “the Environmental Permitting Regulations”;
- (d) in paragraph (5), after “(evidence of samples and abstractions)” insert “and the Environmental Permitting Regulations”; and
- (e) in paragraph (6), after “section 209” insert “and the Environmental Permitting Regulations”.

### **The Landfill Tax Regulations 1996**

- 11.** In regulation 33(4) (bodies eligible for approval) of the Landfill Tax Regulations 1996(**193**)—
- (a) omit paragraph (f); and
  - (b) in paragraph (h), for “2007” substitute “2010”.

### **Control of Pollution (Applications, Appeals and Registers) Regulations 1996**

**12.**—(1) The Control of Pollution (Applications, Appeals and Registers) Regulations 1996(**194**) are amended as follows.

- (2) In regulation 1(2) (interpretation), omit the definition of “discharge consent”.
- (3) Omit the following regulations—
  - (a) regulation 2 (advertisements);
  - (b) regulation 3 (timing of advertisements);
  - (c) regulation 4 (exemption from advertising requirements);
  - (d) regulation 5 (consultation);
  - (e) regulation 6 (transmitted applications);
  - (f) regulation 7 (discharge consents without applications).
- (4) In regulation 8(1) (appeals), omit—
  - (a) “91 or”; and
  - (b) “appeals in respect of consents under Chapter II of Part III and”.
- (5) In regulation 9 (time limit for bringing appeal), omit—
  - (a) paragraph (1)(a), (b) and (d); and
  - (b) paragraph (3)(a), (b) and (c).
- (6) Omit regulation 10 (action on receipt of notice of appeal).
- (7) In regulation 11 (written representations)—
  - (a) omit paragraph (1)(a);
  - (b) in paragraph (1)(b), omit “in all other cases”;
  - (c) omit paragraph (3); and
  - (d) in paragraph (4)(b), for “(1) to (3)” substitute “(1) and (2)”.
- (8) In regulation 12 (hearings)—
  - (a) in paragraph (1)—

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**(193)** S.I. 1996/1527; relevant amending instruments are S.I. 2000/1973 and 2007/3538.

**(194)** S.I. 1996/2971.

- (i) omit “91 or”, and
- (ii) omit “appeals in respect of consents under Chapter II of Part III and”;
- (b) omit paragraphs (2) and (5);
- (c) in paragraph (3), for “paragraphs (1) and (2)” substitute “paragraph (1)”; and
- (d) in paragraph (6), for sub-paragraphs (a) to (c) substitute—
  - “(a) the appellant; and
  - (b) the Agency.”.
- (9) In regulation 13(2) (notification of determination)—
  - (a) in sub-paragraph (a), omit “and to any persons required under regulation 10(1)(b)(ii) to be notified of the appeal;” and
  - (b) in sub-paragraph (b), omit “to any other person who made representations to the Secretary of State under regulation 10 and”.
- (10) Omit regulation 14 (consents for discharges by the Agency).
- (11) In regulation 15 (pollution control registers)—
  - (a) omit paragraphs (b), (c), (f), (g), (h), (k) and (l); and
  - (b) in paragraph (i)—
    - (i) omit “notices of appeal under section 91 of that Act,” and
    - (ii) omit “representations made under regulation 10,”.
- (12) In regulation 16 (particulars on register)—
  - (a) in paragraph (1), omit “and paragraph (2) below”; and
  - (b) omit paragraphs (1)(a) and (b) and (2).
- (13) In regulation 17(2) (period after which information may be removed from register), for “, (e) or (f)” substitute “or (e)”.
- (14) Omit Schedule 1 (discharge consents without applications) and Schedule 2 (discharge consents for the Agency).

### **The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999**

**13.** In Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999(**195**), in paragraph 3(g) of the table, in column 2, for the words from “an authorisation” to the end substitute “the grant of an environmental permit under the Environmental Permitting (England and Wales) Regulations 2010 in relation to a radioactive substances activity described in paragraph 5(2)(b), (2)(c) or (4) of Part 2 of Schedule 23 to those Regulations, or the variation of such a permit”.

### **The Water Protection Zone (River Dee Catchment) Designation Order 1999**

**14.** In article 2 of the Water Protection Zone (River Dee Catchment) Designation Order 1999 (interpretation)(**196**), in paragraph (ii) of the definition of “controlled substance”, for “section 2 of the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

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(195) S.I. 1999/293.

(196) S.I. 1999/915.

### **The Ionising Radiations Regulations 1999**

- 15.—(1) The Ionising Radiations Regulations 1999(197) are amended as follows.
- (2) In regulation 30 (notification of certain occurrences), for paragraph (2) substitute—
- “(2) Paragraph (1) shall not apply where such release—
- (a) was in accordance with an environmental permit under the Environmental Permitting (England and Wales) Regulations 2010 in respect of mobile radioactive apparatus within the meaning of those Regulations;
  - (b) was in a manner specified in such an environmental permit in respect of radioactive waste within the meaning of those Regulations; or
  - (c) did not, under regulation 12 of those Regulations, require an environmental permit.”.

(3) In Schedule 1 (work not required to be notified under regulation 6)—

    - (a) in paragraph 1, for “the appropriate Agency” wherever it appears substitute “the Environment Agency”; and
    - (b) omit paragraph 2.

### **The Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000**

16. In Schedule 3 to the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000 (accuracy classes for filling instruments)(198), for “section 2 of the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

### **The Non-automatic Weighing Instruments Regulations 2000**

17.—(1) The Non-automatic Weighing Instruments Regulations 2000(199) are amended as follows.

(2) In regulation 28(7) (restrictions on use of instruments for trade), for “section 2 of the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

### **The Control of Pollution (Oil Storage) (England) Regulations 2001**

18. In regulation 2(2)(a) of the Control of Pollution (Oil Storage)(England) Regulations 2001 (application of Regulations)(200), for “2007” substitute “2010”.

### **The Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003**

19. In Schedule 3 to the Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003 (requirements relating to use)(201), for “section 2 of the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

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(197)S.I. 1999/3232.

(198)S.I. 2000/388.

(199)S.I. 2000/3236.

(200)S.I. 2001/2954, amended by S.I. 2007/3538; there are other amending instruments but none is relevant.

(201)S.I. 2003/2454.

### **The End-of-Life Vehicles Regulations 2003**

20. In regulation 2 of the End-of-Life Vehicles Regulations 2003 (interpretation)(202), in the definition of “authorised treatment facility”, for “2007” substitute “2010”.

### **The Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003**

21.—(1) The Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003(203) are amended as follows.

(2) In Schedule 3 (requirements in respect of manner of use), under “Definition of waste”, for “section 2 of the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

### **The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003**

22. Schedule 2 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 (enactments to which duties in regulation 3 apply)(204) is amended as follows—

(a) for paragraph 4 substitute—

“4. Parts 2 and 2A of the Environmental Protection Act 1990 (waste on land and contaminated land).”;

(b) omit paragraph 22;

(c) for paragraph 28 substitute—

“28. The Environmental Permitting (England and Wales) Regulations 2010.”.

### **The Hazardous Waste (England and Wales) Regulations 2005**

23.—(1) The Hazardous Waste (England and Wales) Regulations 2005(205) are amended as follows.

(2) In regulation 5(1) (general interpretation)—

(a) for the definition of “the 2007 Regulations”, substitute—

““the Environmental Permitting Regulations” means the Environmental Permitting (England and Wales) Regulations 2010;”;

(b) in the definition of “environmental permit”, for “the 2007 Regulations” substitute “the Environmental Permitting Regulations”;

(c) for the definition of “registered exemption” substitute—

““registered exemption” means an exempt waste operation within the meaning of the Environmental Permitting Regulations;”;

(d) for the definition of “waste permit” substitute—

““waste permit” means a licence under Part 2 of the Food and Environment Protection Act 1985 or an environmental permit”; and

(e) at the appropriate place, insert—

““radioactive substances activity” has the meaning given in Schedule 23 to the Environmental Permitting Regulations;

(202) S.I. 2003/2635, amended by S.I. 2007/3538; there are other amending instruments but none is relevant.

(203) S.I. 2003/2761.

(204) S.I. 2003/3242, amended by S.I. 2007/3538; there are other amending instruments but none is relevant.

(205) S.I. 2005/894, amended by S.I. 2009/507; there are other amending instruments but none is relevant.

“radioactive waste” has the meaning given in Schedule 23 to the Environmental Permitting Regulations;”.

(3) For paragraph (1) of regulation 15 (radioactive waste) substitute—

“(1) This regulation applies to radioactive waste where—

(a) a radioactive substances activity in relation to that radioactive waste does not require an environmental permit by virtue of section 15 of the Radioactive Substances Act 1993; and

(b) that radioactive waste has one or more hazardous properties arising other than from its radioactive nature.”.

(4) In regulation 26(4)(d) (common provisions on notifications), for “the 2007 Regulations” substitute “the Environmental Permitting Regulations”.

(5) In regulation 42(8) (duty of consignee not accepting delivery), for “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting Regulations”.

### **The Greenhouse Gas Emissions Trading Scheme Regulations 2005**

**24.** In regulation 8(3)(b)(i) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (applications for greenhouse gas emissions permits)(**206**), for “2007” substitute “2010”.

### **The Hazardous Waste (Wales) Regulations 2005**

**25.**—(1) The Hazardous Waste (Wales) Regulations 2005(**207**) are amended as follows.

(2) In regulation 5(1)(general interpretation)—

(a) for the definition of “the 2007 Regulations” substitute—

““the Environmental Permitting Regulations” means the Environmental Permitting (England and Wales) Regulations 2010;”;

(b) in the definition of “environmental permit”, for “the 2007 Regulations” substitute “the Environmental Permitting Regulations”;

(c) for the definition of “registered exemption” substitute—

““registered exemption” (*“esemptiad cofrestredig”*) means an exempt waste operation within the meaning of the Environmental Permitting Regulations;”;

(d) for the definition of “waste permit” substitute—

““waste permit” (*“trwydded gwastraff”*) means a licence under Part 2 of the Food and Environment Protection Act 1985 or an environmental permit”; and

(e) at the appropriate place, insert—

““radioactive substances activity” has the meaning given in Schedule 23 to the Environmental Permitting Regulations;

“radioactive waste” has the meaning given in Schedule 23 to the Environmental Permitting Regulations;”.

(3) For paragraph (1) of regulation 15 (radioactive waste) substitute—

“(1) This regulation applies to radioactive waste where—

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(206) S.I. 2005/925, amended by S.I. 2007/3538.

(207) S.I. 2005/1806 (W. 138), amended by S.I. 2007/3538.

- (a) a radioactive substances activity in relation to that radioactive waste does not require an environmental permit by virtue of section 15 of the Radioactive Substances Act 1993; and
- (b) that radioactive waste has one or more hazardous properties arising other than from its radioactive nature.”.

(4) In regulation 26(4)(d) (common provisions on notifications), for “the 2007 Regulations” substitute “the Environmental Permitting Regulations”.

(5) In regulation 42(8) (duty of consignee not accepting delivery), for “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting Regulations”.

### **The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005**

26. In regulation 3(4) of the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005 (scope)(208), in paragraph (i) of the definition of “SED Activity”, for “2007” substitute “2010”.

### **The Railways Infrastructure (Access and Management) Regulations 2005**

27. In regulation 3(1) of the Railways Infrastructure (Access and Management) Regulations 2005 (interpretation)(209), in the definition of “nuclear site”, for “Radioactive Substances Act 1993” substitute “Environmental Permitting (England and Wales) Regulations 2010”.

### **The Waste Management (England and Wales) Regulations 2006**

28. In the Waste Management (England and Wales) Regulations 2006(210), omit the following—
- (a) regulation 6 (amendment of Waste Management Licensing Regulations 1994);
  - (b) regulation 7 (amendment of Waste Management Regulations 1996);
  - (c) regulation 8 (amendment of Groundwater Regulations 1998);
  - (d) regulation 9 (amendment of Landfill (England and Wales) Regulations 2002).

### **The Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006**

29. In regulation 16(3) of the Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006 (accuracy class)(211), for “section 2 of the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

### **The Measuring Instruments (Automatic Catchweighers) Regulations 2006**

30. In regulation 18(5) of the Measuring Instruments (Automatic Catchweighers) Regulations 2006 (use for trade)(212), for “section 2 of the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

(208) S.I. 2005/2773, amended by S.I. 2007/3538; there are other amending instruments but none is relevant.

(209) S.I. 2005/3049.

(210) S.I. 2006/937.

(211) S.I. 2006/1256.

(212) S.I. 2006/1257.

### **The Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006**

31. In Part 1 of Schedule 5 to the Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006 (requirements for use for trade: accuracy classes)(213), for “section 2 of the Radioactive Substances Act 1993” substitute “Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010”.

### **The Contaminated Land (England) Regulations 2006**

32.—(1) The Contaminated Land (England) Regulations 2006(214) are amended as follows.

(2) In regulation 2(4) (land required to be designated as a special site), for “2007” substitute “2010”.

(3) In paragraph 16 of Schedule 3 (particulars to be contained in a register)—

(a) for “a consent given under Chapter 2 of Part 3 of the Water Resources Act 1991 (pollution offences)” substitute “an environmental permit granted under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2010”; and

(b) in sub-paragraph (a), for “consent” substitute “environmental permit”.

### **The Contaminated Land (Wales) Regulations 2006**

33.—(1) The Contaminated Land (Wales) Regulations 2006(215) are amended as follows.

(2) In regulation 2(4) (land required to be designated as a special site), for “2007” substitute “2010”.

(3) In paragraph 16 of Schedule 3 (particulars to be contained in a register)—

(a) for “a consent given under Chapter 2 of Part 3 of the Water Resources Act 1991 (pollution offences)” substitute “an environmental permit granted under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2010”; and

(b) in sub-paragraph (a), for “consent” substitute “environmental permit”.

### **The Waste Electrical and Electronic Equipment Regulations 2006**

34. In regulation 2(1) of the Waste Electrical and Electronic Equipment Regulations 2006 (interpretation)(216), in the definition of “relevant authorisation”, for each reference to “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting (England and Wales) Regulations 2010”.

### **The Producer Responsibility Obligations (Packaging Waste) Regulations 2007**

35. In regulation 2(2) of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (interpretation)(217), in the definition of “relevant authorisation”, for each reference to “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting (England and Wales) Regulations 2010”.

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(213) S.I. 2006/1258.

(214) S.I. 2006/1380.

(215) S.I. 2006/2989 (W. 278), amended by S.I. 2007/3538.

(216) S.I. 2006/3289, amended by S.I. 2007/3538.

(217) S.I. 2007/871, amended by S.I. 2007/3538.

### **The Transfrontier Shipment of Waste Regulations 2007**

36. For regulation 16 of the Transfrontier Shipment of Waste Regulations 2007(218), substitute

#### **“Environmental Permitting (England and Wales) Regulations 2010**

16. The definition of “waste management plan” in paragraph 1 of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2010 has effect as if the reference in that paragraph to a plan made under the plan-making provisions includes a reference to a waste management plan made under this Part.”.

### **The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007**

37.—(1) The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(219) are amended as follows.

(2) In regulation 3(1)(a) (meaning of “participating plant”), for “2007” substitute “2010”.

(3) In paragraph 1 of Schedule 1 (the register), in paragraph (a) of the definition of “cumulative in-year mass emissions”, for “2007” substitute “2010”.

### **The Persistent Organic Pollutants Regulations 2007**

38.—(1) Regulation 4 of the Persistent Organic Pollutants Regulations 2007(220) is amended as follows—

(a) regulation 4 is renumbered as paragraph (1) of that regulation;

(b) in paragraph (1)(b) (as re-numbered), for “the Pollution Prevention and Control (England and Wales) Regulations 2000” substitute “the Environmental Permitting (England and Wales) Regulations 2010”;

(c) after paragraph (1)(b) (as re-numbered), insert—

“(2) In paragraph (1)(b), “permit” in relation to the Environmental Permitting (England and Wales) Regulations 2010 means environmental permit within the meaning of those Regulations.”.

### **The Environmental Damage (England) Regulations 2009**

39.—(1) The Environmental Damage (England) Regulations 2009(221) are amended as follows.

(2) In regulation 10 (the title to which becomes “Enforcing authorities under the Environmental Permitting (England and Wales) Regulations 2010”), in paragraph (1), for “2007” substitute “2010”.

(3) In regulation 11 (enforcing authorities in other cases), for “2007” substitute “2010”.

(4) In paragraph 1 of Schedule 3 (permits etc)—

(a) in sub-paragraph (a), for “2007” substitute “2010”;

(b) in sub-paragraph (c), omit “a water discharge consent,”; and

(c) omit sub-paragraph (d).

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(218) S.I. 2007/1711.

(219) S.I. 2007/2325, amended by S.I. 2007/3538.

(220) S.I. 2007/3106.

(221) S.I. 2009/153.

## The Waste Batteries and Accumulators Regulations 2009

40.—(1) The Waste Batteries and Accumulators Regulations 2009(222) are amended as follows.

(2) In paragraph 12 of Schedule 4 (approval of battery treatment operators and exporters), for each reference to “the Environmental Permitting (England and Wales) Regulations 2007” substitute “the Environmental Permitting (England and Wales) Regulations 2010”.

(3) In Schedule 8 (amendments to other enactments), omit paragraph 2(3) and (6).

### SCHEDULE 27

Regulation 108

#### Revocations

<i>Instruments revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Control of Pollution (Radioactive Waste) Regulations 1989	<a href="#">S.I. 1989/1158</a>	The whole Regulations.
The Radioactive Substances Appeals Regulations 1990	<a href="#">S.I. 1990/2504</a>	The whole Regulations.
The Control of Pollution (Channel Tunnel Rail Link) Regulations 1998	<a href="#">S.I. 1998/1649</a>	The whole Regulations.
The High-Activity Sealed Radioactive Sources and Orphan Sources Regulations 2005	<a href="#">S.I. 2005/2686</a>	The whole Regulations.
The Environmental Permitting (England and Wales) Regulations 2007	<a href="#">S.I. 2007/3538</a>	The whole Regulations, except — <ul style="list-style-type: none"> <li>(a) regulations 1, 67, 72(3), (4), (5), (8), (9) and (11) and 73 and Schedule 21; and</li> <li>(b) for the purpose of any of those provisions, any definition in Part 1.</li> </ul>
The Environmental Permitting (England and Wales) (Amendment) Regulations 2009	<a href="#">S.I. 2009/1799</a>	The whole Regulations, except regulations 1 and 28(1) and Schedule 2.
The Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009	<a href="#">S.I. 2009/3381</a>	The whole Regulations, except regulations 1 and 13 to 15.
The Groundwater (England and Wales) Regulations 2009	<a href="#">S.I. 2009/2902</a>	The whole Regulations.

(222) [S.I. 2009/890](#).

## SCHEDULE 28

Regulation 109

## Repeals

Chapter	Short title	Extent of repeal
1990 c. 43	Environmental Protection Act 1990	In section 156(2), “; and the provisions of the Radioactive Substances Act 1993”.
1991 c. 46	Atomic Weapons Establishment Act 1991	In the Schedule, paragraph 10A <b>(223)</b> and the cross-heading preceding it.
1991 c. 57	Water Resources Act 1991	Sections 85 to 91.  Section 96(3).  Section 99.  Section 103.  Section 161ZC(5) <b>(224)</b> .  Section 161AB(4) <b>(225)</b> .  Section 190(1)(b), (c), (g), (h), (j), (k), (m), (n) and (5).  Section 191B(2)(a), (2)(b) and (12) <b>(226)</b> .  In section 221, the definition of “enforcement notice”.  Schedule 10.  Schedule 13.
1992 c. 43.	Competition and Service (Utilities) Act 1992	Section 46.
1993 c. 12	Radioactive Substances Act 1993	Sections 1 to 7.  Section 8(1) to (3) and (8).  Sections 9 and 10.  Section 11(3).  Sections 12 to 14.

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**(223)** Paragraph 10A was inserted by the Radioactive Substances Act 1993 (c. 12), section 49(1) and Schedule 4, paragraph 10.

**(224)** Section 161ZC(5) was inserted by S.I. 2009/3104.

**(225)** Section 161AB(4) was inserted by S.I. 2009/3104.

**(226)** Section 191B was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 170.

Chapter	Short title	Extent of repeal
		Section 15(3).
		Sections 16 to 39.
		Section 41.
		Section 42.
		Section 44(2).
		Sections 45 and 46.
		Section 48.
		Schedule 1.
		In Schedule 3—
		(a) in paragraph 9, “85, 86, 87(1), 88(2),”;
		(b) Parts II and III.
		Schedule 6.
1995 c. 25	Environment Act 1995	In section 5(5), paragraph (h).
		In section 56(1), in the definition of “environmental licence”, paragraphs (e), (f) and (g).
		Section 60(1) and (2).
		In section 108(15), in the definition of “pollution control functions”, paragraph (l).
		In section 114(2)(a)—
		(a) in sub-paragraph (v), “91,”;
		(b) sub-paragraph (vi).
		In Schedule 22, paragraphs 142, 143, 177(6), 182, 183, 186, 200 to 223, and 225 to 229.
1999 c. 28	Food Standards Act 1999	In Schedule 3, paragraph 21 and the cross-heading preceding it.
		In Schedule 5, paragraph 43.

Chapter	Short title	Extent of repeal
2004 c. 20	Energy Act 2004	Sections 72 to 75.  In section 196(1), the definition of “the 1993 Act”.  Schedule 15.
2005 c. 5	Income Tax (Trading and Other Income) Act 2005	In section 167(1), in the definition of “waste disposal licence”, paragraph (d).
2008 c. 27	Climate Change Act 2008	Section 88(2).
2009 c. 4	Corporation Tax Act 2009	Section 144(1)(d).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide a consolidated system of environmental permitting in England and Wales. They replace the Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538) (which provided a system for permitting waste operations, mining waste operations, mobile plant and installations), the system of consenting of water discharges in Chapter 2 of Part 3 of the Water Resources Act 1991 (c. 57), the groundwater permitting system in the Groundwater (England and Wales) Regulations 2009 (S.I. 2009/2902) and the system of radioactive substances regulation in the Radioactive Substances Act 1993 (c. 12).

These Regulations transpose provisions of 18 Directives which impose obligations required to be delivered through permits or capable of being delivered through permits.

### Scope

Regulation 8 defines the term “regulated facility” and regulation 12 requires every regulated facility to be operated under the authority of an environmental permit.

The combined classes of “regulated facility” include (unless they are exempt or excluded) every installation, mobile plant, waste operation, mining waste operation, radioactive substances activity, water discharge activity and groundwater activity, whether or not carried on as part of the operation of another regulated facility. Those terms are defined by regulations 2(1) and in Schedules 1, 9 and 20 to 23.

The term “exempt facility” is defined in regulation 5. Schedule 2 contains procedure in relation to exempt facilities, including registration requirements.

### Procedure

Part 2 and Schedules 5 and 6 contain procedure in relation to environmental permits.

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(223) Paragraph 10A was inserted by the Radioactive Substances Act 1993 (c. 12), section 49(1) and Schedule 4, paragraph 10.

(224) Section 161ZC(5) was inserted by S.I. 2009/3104.

(225) Section 161AB(4) was inserted by S.I. 2009/3104.

(226) Section 191B was inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 170.

Regulations 13 (grant of a permit), 20 (variation of a permit), 21 (transfer of a permit) and 25 (surrender of a permit), with Part 1 of Schedule 5, regulate permit applications. Regulation 20 also provides for variation of a permit on the initiative of the regulator. Regulation 24 allows certain permits to be surrendered by notification. Regulation 15 and Part 2 of Schedule 5 provide for compensation where a permit condition requires interference with the property rights of a person other than the operator. Regulation 17 allows more than one regulated facility on the same site, or with the same operator, to be authorised by the same permit in some circumstances; regulation 18 allows the consolidation of separate permits. Regulations 22 and 23 provide for the revocation of a permit on the initiative of the regulator. Regulations 26-30 provide for the preparation of standard rules applying to a description of regulated facility, which may be incorporated into a permit at the request of an operator. Regulation 31 and Schedule 6 provide for appeals.

### **Duties of the regulator**

Part 3 and Schedules 7 to 23 provide for the discharge of functions by the regulator in relation to permits. Regulation 32 sets the regulator for different classes or description of regulated facility and regulation 33 allows for a change of regulator at the direction of the Secretary of State or the Welsh Ministers. Regulation 34 requires the regulator periodically to review permits and to inspect regulated facilities. Regulation 35 and Schedules 7 to 23 require the regulator to exercise its functions so as to comply with the duties set out in those Schedules. Each Schedule requires the regulator to ensure compliance with a specified Directive or Directives when exercising its functions in relation to a regulated facility falling within the Schedule's scope.

### **Enforcement, powers and functions**

Part 4 contains enforcement-related provision. Regulations 36 and 37 provide for enforcement notices (requiring compliance with a permit) and suspension notices (suspending the authorisation of the operation of a regulated facility). Regulation 38 contains offences and regulation 40 provides for defences. Regulation 39 sets the penalties on conviction.

Part 5 and Schedule 24 make provision for public registers to be kept by the regulator, including information which may be kept off the register in the interests of national security or because it is confidential in nature.

Part 6 confers powers on the regulator, Secretary of State and Welsh Ministers and imposes duties on the regulator. The Part includes power for the regulator to prevent or remedy pollution and to recover associated costs from the operator (regulation 57), a requirement on the Environment Agency to publish a public participation statement (regulation 59), and power for the Secretary of State or Welsh Ministers to make schemes setting fees and charges in relation to local authority functions under the Regulations.

### **Miscellaneous**

Part 7 and Schedules 24 to 28 contain miscellaneous and transitional provision, savings, consequential amendments, revocations and repeals.

By virtue of regulation 1(1)(c), the revocations and repeals in Schedules 27 and 28 extend to England and Wales only.

Chapter 2 of Part 7 includes provision requiring public authorities to deliver obligations under the Waste Framework Directive (2006/12/EC) when making decisions on specified authorisations other than environmental permits, including planning permissions (regulation 68 and Schedule 25).

### **Transposition note and impact assessment**

A transposition note and an impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector are available from the Environment Regulation Policy Division, Department for Environment, Food and Rural Affairs, Ergon House, Horseferry Road, London SW1P 2AL, and are annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

