



Environment Act 1995

1995 CHAPTER 25

PART I

THE ENVIRONMENT AGENCY AND THE SCOTTISH ENVIRONMENT PROTECTION AGENCY

CHAPTER II

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY

Transfer of functions, property etc. to SEPA

21 Transfer of functions to SEPA

- (1) On the transfer date there shall by virtue of this section be transferred to SEPA—
- (a) the functions of river purification authorities, that is to say—
 - (i) their functions with respect to water resources under or by virtue of Part III of the Rivers (Prevention of Pollution) (Scotland) Act 1951 (in this Part referred to as “the 1951 Act”) and Part II of the Natural Heritage (Scotland) Act 1991;
 - (ii) their functions with respect to water pollution under or by virtue of Part III of the 1951 Act, the Rivers (Prevention of Pollution) (Scotland) Act 1965 and Part II of the Control of Pollution Act 1974;
 - (iii) their functions as enforcing authority, in relation to releases of substances into the environment, under or by virtue of Part I of the 1990 Act;
 - (iv) their functions with respect to flood warning systems under or by virtue of Part VI of the Agriculture Act 1970; and
 - (v) the functions assigned to them by or under any other enactment apart from this Act;
 - (b) the functions of waste regulation authorities, that is to say, the functions conferred or imposed on them by or under—

Status: This is the original version (as it was originally enacted).

- (i) the Control of Pollution (Amendment) Act 1989; or
 - (ii) Part II of the 1990 Act,
- or assigned to them by or under any other enactment apart from this Act;
- (c) the functions of disposal authorities under or by virtue of sections 3 to 10, 16, 17(1)(a) and 17(2)(b) to (d) of the Control of Pollution Act 1974;
 - (d) the functions of the chief inspector for Scotland constituted under section 16(3) of the 1990 Act, that is to say, the functions conferred or imposed on him by or under Part I of that Act or assigned to him by or under any other enactment apart from this Act;
 - (e) the functions of the chief inspector for Scotland appointed under section 4(2) (b) of the Radioactive Substances Act 1993, that is to say, the functions conferred or imposed on him by or under that Act or assigned to him by or under any other enactment apart from this Act;
 - (f) the functions conferred or imposed by or under the Alkali, &c, Works Regulation Act 1906 (in this section referred to as “the 1906 Act”) on the chief, or any other, inspector (within the meaning of that Act), so far as exercisable in relation to Scotland;
 - (g) so far as exercisable in relation to Scotland, the functions in relation to improvement notices and prohibition notices under Part I of the Health and Safety at Work etc. Act 1974 (in this section referred to as “the 1974 Act”) of inspectors appointed under section 19 of that Act by the Secretary of State in his capacity as enforcing authority responsible in relation to Scotland for the enforcement of the 1906 Act and section 5 of the 1974 Act;
 - (h) the functions of local authorities as enforcing authority, in relation to releases of substances into the air, under or by virtue of Part I of the 1990 Act; and
 - (i) the functions of the Secretary of State specified in subsection (2) below.
- (2) The functions of the Secretary of State mentioned in subsection (1)(i) above are, so far as exercisable in relation to Scotland—
- (a) the functions conferred or imposed on him by virtue of his being, for the purposes of Part I of the 1974 Act, the authority which is by any of the relevant statutory provisions made responsible for the enforcement of the 1906 Act and section 5 of the 1974 Act;
 - (b) his functions under, or under regulations made by virtue of, section 9 of the 1906 Act (registration of works), other than any functions of his as an appellate authority or any function of making regulations;
 - (c) his functions under section 19 of the Clean Air Act 1993 with respect to the creation of smoke control areas by local authorities; and
 - (d) his functions under section 30(1) of the Radioactive Substances Act 1993 (power to dispose of radioactive waste).
- (3) River purification boards shall be dissolved on the transfer date.

22 Transfer of property, rights and liabilities to SEPA

- (1) On the transfer date—
- (a) the property, rights and liabilities of every river purification board shall, by virtue of this paragraph, be transferred to and vested in SEPA;
 - (b) any property, rights and liabilities which are the subject of a scheme under this section—

- (i) made by the Secretary of State; or
 - (ii) made by a local authority and approved by the Secretary of State,shall be transferred to and vested in SEPA by and in accordance with the scheme.
- (2) The Secretary of State may, before the transfer date, make a scheme for the transfer to SEPA of such of—
 - (a) his property, rights and liabilities; or
 - (b) the property, rights and liabilities of any of the inspectors or chief inspectors mentioned in subsection (1) of section 21 above,as appear to the Secretary of State appropriate to be so transferred in consequence of the transfer of any functions to SEPA by virtue of that subsection.
- (3) It shall be the duty of every local authority to make a scheme, after consultation with SEPA, for the transfer to SEPA of—
 - (a) such of the authority's property and rights as are held by it for the purposes of its functions as—
 - (i) a waste regulation authority;
 - (ii) a disposal authority under or by virtue of the provisions mentioned in section 21(1)(c) above;
 - (iii) enforcing authority, in relation to releases of substances into the air, by virtue of Part I of the 1990 Act; and
 - (iv) in the case of an islands council, a river purification authority; and
 - (b) such of its liabilities as are liabilities to which it is subject by virtue of its being an authority mentioned in paragraph (a)(i) to (iv) above,and to submit that scheme to the Secretary of State for his approval before such date as he may direct.
- (4) Any local authority preparing a scheme in pursuance of subsection (3) above shall take into account any guidance given by the Secretary of State as to the provisions which he regards as appropriate for inclusion in the scheme.
- (5) Where a scheme under subsection (3) above is submitted to the Secretary of State, he may—
 - (a) approve the scheme;
 - (b) approve the scheme subject to such modifications as he considers appropriate; or
 - (c) reject the scheme;but the power conferred on the Secretary of State by paragraph (b) above shall be exercisable only after consultation with the local authority which submitted the scheme to him and with SEPA.
- (6) The Secretary of State may, in the case of any local authority which is required to make a scheme under subsection (3) above, himself make a scheme for the transfer to SEPA of such of the body's property, rights or liabilities as are mentioned in paragraph (a) or (b) of that subsection, if—
 - (a) the authority fails to submit a scheme under that subsection to him for his approval before the due date; or
 - (b) the Secretary of State rejects a scheme under that subsection submitted to him by the authority;

Status: This is the original version (as it was originally enacted).

but nothing in this subsection shall prevent the Secretary of State from approving any scheme which may be submitted to him after the due date.

- (7) Where the Secretary of State makes a transfer scheme under subsection (6) above, he may recover his reasonable expenses in doing so, or such proportion of those expenses as he thinks fit, from the local authority in question by such means as appear to him to be appropriate including, without prejudice to that generality, setting off the expenses payable by the local authority against revenue support grant or non-domestic rate income payable by the Secretary of State to the local authority under paragraph 3 of Schedule 12 to the Local Government Finance Act 1992.
- (8) The Secretary of State may, at any time before the transfer date, modify any scheme made or approved by him under this section but only after consultation with SEPA and, in the case of a scheme which was approved by him (with or without modifications), after consultation with the local authority which submitted the scheme to him for approval.
- (9) Schedule 2 to this Act shall have effect in relation to transfers by or under this section.

23 Functions of staff commission

The functions of the staff commission established under section 12 of the Local Government etc. (Scotland) Act 1994 shall include—

- (a) considering and keeping under review the arrangements for the transfer to SEPA, in consequence of this Act or of any scheme made under it, of staff employed by local authorities;
- (b) considering such staffing problems arising out of, consequential on or connected with any provision of, or scheme made under, this Act as may be referred to them by the Secretary of State or by any local authority;
- (c) advising the Secretary of State as to the steps necessary to safeguard the interests of the staff referred to in paragraph (a) above.