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STATUTORY INSTRUMENTS

1994 No. 1329

ENVIRONMENTAL PROTECTION

The Environmental Protection (Prescribed Processes and Substances Etc.) (Amendment) (No. 2) Regulations 1994

<i>Made</i>	- - - -	<i>17th May 1994</i>
<i>Laid before Parliament</i>		<i>18th May 1994</i>
<i>Coming into force</i>	- -	<i>1st June 1994</i>

The Secretary of State, in exercise of the powers conferred on him by section 2 of and paragraphs 1(2) and (5) and 2(2) of Schedule 1 to the Environmental Protection Act 1990(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Environmental Protection (Prescribed Processes and Substances Etc.) (Amendment) (No. 2) Regulations 1994 and shall come into force on 1st June 1994.

Amendment of regulations

2. For Schedule 6 to the Environmental Protection (Prescribed Processes and Substances Etc.) (Amendment) Regulations 1994(2) there shall be substituted the Schedule set out in the Schedule to these Regulations.

(1) 1990 c. 43.
(2) [S.I. 1994/1271](#).

Status: This is the original version (as it was originally made).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

Signed by authority of the Secretary of State for the Environment

17th May 1994

Robert Atkins
Minister of State,
Department of the Environment

SCHEDULE

Regulation 2

SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 6 TO THE ENVIRONMENTAL PROTECTION (PRESCRIBED PROCESSES AND SUBSTANCES ETC.) (AMENDMENT) REGULATIONS 1994

“SCHEDULE 6

Regulation 5

TRANSITIONALS

Interpretation

7. In this Schedule—

“the central enforcing authority” means the chief inspector or, in the case of a process carried on in Scotland, the chief inspector or the river purification authority as determined under the Environmental Protection (Determination of Enforcing Authority Etc) (Scotland) Regulations 1992⁽³⁾;

“existing process” means a process—

- (a) which was being carried on at some time in the 12 months immediately preceding 1st December 1994; or
- (b) which is to be carried on at a works, plant or factory or by means of mobile plant which was under construction or in the course of manufacture or in the course of commission at that date, or the construction or supply of which was the subject of a contract entered into before that date;

“the determination date” for a prescribed process means—

- (a) in the case of a process for which an authorisation is granted by the enforcing authority, whether in pursuance of the application or of a direction under section 6(5) of or paragraph 3(5) of Schedule 1 to the Act, the date on which the authorisation is granted;
- (b) in the case of a process for which an authorisation is refused by the enforcing authority in pursuance of a direction under section 6(5) of or paragraph 3(5) of Schedule 1 to the Act, the date on which the authorisation is refused;
- (c) in the case of a process for which authorisation is refused by the enforcing authority other than as described in (b) above—
 - (i) if the applicant appeals against the refusal and the enforcing authority is directed to grant an authorisation, the date on which the authorisation is granted in pursuance of the direction;
 - (ii) if the applicant appeals against the refusal and the refusal is affirmed, the date of the affirmation of the refusal;
 - (iii) if no appeal is made against the refusal, the date immediately following the last day, determined in accordance with regulation 10(1) of the Environmental Protection (Applications, Appeals and Registers) Regulations 1991⁽⁴⁾, on which notice of appeal might have been given;

“Part A process” and “Part B process” have the same meaning as in the principal Regulations⁽⁵⁾.

⁽³⁾ S.I. 1992/530.

⁽⁴⁾ S.I. 1991/507.

⁽⁵⁾ S.I. 1991/472; see regulation 2 for the definition of these terms.

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Processes which cease to be prescribed processes

2.—(1) This paragraph applies to a prescribed process—

- (a) which, by virtue of regulation 4 above, will cease to be a prescribed process on 1st December 1994; and
- (b) in respect of which no authorisation under section 6 of the Act is in force on 1st June 1994.

(2) Regulation 3(3) of the principal Regulations (the prescribed date) shall not apply to a prescribed process to which this paragraph applies.

(3) For the purposes of regulation 3(1) of the principal Regulations, the prescribed date in the case of a prescribed process to which this paragraph applies shall be 30th November 1994.

Processes which become Part A prescribed processes

3.—(1) Where, by virtue of regulation 4 above, an existing process which is not a prescribed process before 1st December 1994 becomes a Part A process on that date, then, with effect from that date—

- (a) regulation 3(3) of the principal Regulations (the prescribed date) shall not apply in respect of that process;
- (b) for the purposes of regulation 3(1) of the principal Regulations, the prescribed date in respect of that process shall, subject to paragraph 8 below, be whichever is the latest of the following—
 - (i) 30th November 1994; or
 - (ii) where application is duly made to the central enforcing authority in accordance with section 6 of the Act before 1st November 1994 for authorisation to carry on the process, the determination date for that process; or
 - (iii) the date which would be determined in accordance with Schedule 3 to the principal Regulations⁽⁶⁾ if that Schedule applied with the modifications set out in sub-paragraph (2) below.

(2) The modifications of Schedule 3 to the principal Regulations referred to in sub-paragraph (1) above are—

- (a) in paragraph 2, for “1st April 1991” substitute “30th November 1994”;
- (b) in paragraphs 3(2) and 6, for “1st April 1991” substitute “1st December 1994”;
- (c) in paragraph 7, for “1st April 1990” substitute “1st December 1993”;
- (d) in paragraph 16, for “1st April 1992” substitute “30th November 1994”;
- (e) in paragraphs 17(2) and 20, for “1st April 1992” substitute “1st December 1994”;
- (f) in paragraph 21, for “1st April 1992” substitute “1st December 1993”.

Processes which transfer from Part B to Part A

4. Where, by virtue of regulation 4 above, an existing Part B process becomes a Part A process on 1st December 1994, then, with effect from that date—

- (a) regulation 3(3) of the principal Regulations (the prescribed date) shall not apply in respect of that process;
- (b) for the purposes of regulation 3(1) of the principal Regulations, the prescribed date in respect of that process shall, subject to paragraph 8 below, be whichever is the later of the following—

(6) Schedule 3 to the principal Regulations was amended by [S.I. 1991/836](#), [S.I. 1993/1749](#), [S.I. 1993/2405](#).

- (i) 31st December 1994; or
- (ii) where application is duly made to the central enforcing authority in accordance with section 6 of the Act before 1st January 1995 for authorisation to carry on the process, the determination date for that process.

Processes which become Part B prescribed processes

5. Where, by virtue of regulation 4 above, an existing process which is not a prescribed process before 1st December 1994 becomes a Part B process on that date, then, with effect from that date—

- (a) regulation 3(3) of the principal Regulations (the prescribed date) shall not apply in respect of that process;
- (b) for the purposes of regulation 3(1) of the principal Regulations, the prescribed date in respect of that process shall, subject to paragraph 8 below, be whichever is the later of the following—
 - (i) 31st May 1995; or
 - (ii) where application is duly made to the local enforcing authority in accordance with section 6 of the Act before 1st June 1995 for authorisation to carry on the process, the determination date for that process.

Processes which transfer from Part A to Part B

6. Where, by virtue of regulation 4 above, an existing Part A process becomes a Part B process on 1st December 1994 and, immediately before that date, that Part A process is one for the carrying on of which an application for an authorisation under section 6 of the Act is not yet required to be made, then, with effect from that date—

- (a) regulation 3(3) of the principal Regulations (the prescribed date) shall not apply in respect of that process;
- (b) for the purposes of regulation 3(1) of the principal Regulations, the prescribed date in respect of that process shall, subject to paragraph 8 below, be whichever is the later of the following—
 - (i) 31st May 1995; or
 - (ii) where application is duly made to the local enforcing authority in accordance with section 6 of the Act before 1st June 1995 for authorisation to carry on the process, the determination date for that process.

7.—(1) Where, by virtue of regulation 4 above, an existing Part A process becomes a Part B process on 1st December 1994 but paragraph 6 above does not apply, then, with effect from that date—

- (a) regulation 3(3) of the principal Regulations (the prescribed date) shall not apply in respect of that process;
- (b) for the purposes of regulation 3(1) of the principal Regulations, the prescribed date in respect of that process shall, subject to paragraph 8 below, be whichever is the later of the following—
 - (i) 31st December 1994; or
 - (ii) where application is duly made to the local enforcing authority in accordance with section 6 of the Act before 1st January 1995 for authorisation to carry on the process, the determination date for that process.

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- (2) The requirements of paragraphs 1(2) and 2 of Schedule 1 to the Act (advertisement and consultation) shall not apply in relation to an application made as described in sub-paragraph (1)(b) (ii) above if, in respect of the process to which that application relates—
- (a) an authorisation under section 6 of the Act granted by the central enforcing authority is in force on 30th November 1994; or
 - (b) an application for an authorisation under section 6 of the Act has been made to the central enforcing authority and the requirements of those paragraphs have been fulfilled in relation to that application after 31st May 1993.

Substantial changes

8.—(1) This paragraph applies where the person carrying on an existing process described in any of paragraphs 3 to 7 above makes a substantial change in the process on or after 1st December 1994 and that change—

- (i) has not occasioned construction work which is in progress on that date; and
- (ii) is not the subject of a contract for construction work entered into before that date.

(2) Where this paragraph applies, the prescribed date in respect of that process shall be the date at which the change mentioned in sub-paragraph (1) above is made unless later than the date applicable in accordance with paragraphs 3 to 7 above.

(3) In this paragraph “substantial change” has the same meaning as in section 10 of the Act.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Environmental Protection (Prescribed Processes and Substances Etc.) (Amendment) Regulations 1994 by substituting a new Schedule 6 (transitionals). The Schedule makes transitional provision as to the date after which an authorisation under Part I of the Environmental Protection Act 1990 is required to carry on a process which, by virtue of the amendments in regulation 4 of and Schedules 2 to 5 to those Regulations, becomes or ceases to be subject to integrated pollution control or local authority air pollution control, or is transferred from one form of control to the other.