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STATUTORY INSTRUMENTS

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**1995 No. 3247**

**ENVIRONMENTAL PROTECTION**

**The Environmental Protection (Prescribed Processes and Substances) (Amendment) Regulations 1995**

<i>Made</i>	- - - -	<i>13th December 1995</i>
<i>Laid before Parliament</i>		<i>18th December 1995</i>
<i>Coming into force</i>	- -	<i>8th January 1996</i>

The Secretary of State for the Environment as respects England, the Secretary of State for Wales as respects Wales and the Secretary of State for Scotland as respects Scotland, in exercise of the powers conferred on them by section 2 of and paragraphs 1(2) and 2(2) of Schedule 1 to the Environmental Protection Act 1990(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Environmental Protection (Prescribed Processes and Substances) (Amendment) Regulations 1995 and shall come into force on 8th January 1996.

(2) In these Regulations—

“the Act” means the Environmental Protection Act 1990;

“the principal Regulations” means the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(2), and references to a Section are references to a Section in Schedule 1 to those Regulations.

**Amendment of the principal Regulations**

2. The principal Regulations shall be amended in accordance with the provisions of Schedule 1 below.

**Transitionals**

3. Schedule 2 below (transitionals) shall have effect.

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(1) 1990 c. 43.

(2) S.I. 1991/472, amended by S.I. 1991/836, 1992/614, 1993/1749, 2405, 1994/1271.

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Signed by authority of the Secretary of State

8th December 1995

*Ferrers*  
Minister of State,  
Department of the Environment

Signed by the authority of the Secretary of State for Wales

13th December 1995

*Gwilym Jones*

13th December 1995

*Lindsay*  
Parliamentary Under Secretary of State, Scottish  
Office

## SCHEDULE 1

Regulation 2

### AMENDMENTS OF THE PRINCIPAL REGULATIONS

#### PART 1

##### AMENDMENTS OF SCHEDULE 1

1. In Section 1.1 (gasification and associated processes)(3), for the words “In this Section, “refining natural gas”” there shall be substituted the words “In paragraph (c) of Part B of this Section, “refining natural gas””.

2. In Part A of Section 1.3 (combustion processes)(4)—

(a) for paragraph (a) there shall be substituted the following paragraph—

“(a) Burning any fuel in a combustion appliance with a net rated thermal input of 50 megawatts or more;”;

(b) paragraph (b) shall be omitted;

(c) after paragraph (c) there shall be inserted the following—

“For the purposes of paragraph (a) above, where—

(i) two or more boilers or furnaces with an aggregate net rated thermal input of 50 megawatts or more (disregarding any boiler or furnace with a net rated thermal input of less than 3 megawatts); or

(ii) two or more gas turbines or compression ignition engines with an aggregate net rated thermal input of 50 megawatts or more (disregarding any such turbine or engine with a net rated thermal input of less than 3 megawatts),

are operated by the same person at the same location those boilers or furnaces or, as the case may be, those turbines or engines, shall be treated as a single combustion appliance with a net rated thermal input of 50 megawatts or more.”.

3. In Section 2.2 (non-ferrous metals)(5)—

(a) in paragraph (a) of Part A, for the words “or does not fall” there shall be substituted the words “and does not fall”;

(b) in paragraph (c) of Part A, for the words “paragraphs (a), (c), (d) or (g)” there shall be substituted the words “paragraph (a), (c) or (d)”;

(c) in paragraph (d) of Part A, for the words from “paragraphs (b)” to “Part B” there shall be substituted the words “paragraph (b), (c) or (d) of Part B”;

(d) in paragraph (g) of Part A, for the words “paragraph (a), (d) or (g)” there shall be substituted the words “paragraph (a) or (d)”;

(e) for paragraph (b) of Part B there shall be substituted the following paragraph—

“(b) The separation of copper, aluminium, magnesium or zinc from mixed scrap by differential melting.”;

(f) for paragraph (d) of Part B there shall be substituted the following paragraph—

“(d) Melting zinc, aluminium or magnesium or an alloy of one or more of these metals in conjunction with a die-casting process.”;

(3) Section 1.1 was amended by S.I. 1994/1271, Schedule 3, paragraphs 1 to 3.

(4) Part A of Section 1.3 was amended by S.I. 1992/614, Schedule 1, paragraph 6, and S.I. 1994/1271, Schedule 3, paragraph 5.

(5) Section 2.2 was amended by S.I. 1992/614, Schedule 1, paragraph 8, S.I. 1993/2405, regulation 2(1), and S.I. 1994/1271, Schedule 1, paragraphs 5 and 6 and Schedule 3, paragraphs 11 to 13.

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- (g) paragraph (g) of Part B shall be omitted;
  - (h) after paragraph (g) of Part B, for the words “paragraphs (a), (c), (d) and (g)” there shall be substituted the words “paragraphs (a), (c) and (d)”.
4. In Section 4.1 (petrochemical processes)(6)
- (a) for paragraph (d) of Part A there shall be substituted the following paragraph—
    - “(d) Any process for the polymerisation or co-polymerisation of any unsaturated hydrocarbons (other than the polymerisation or co-polymerisation of a pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbons, or which contains any product of a process mentioned in paragraph (b) or (c) of Part A of this Section) which is likely to involve, in any 12 month period, the polymerisation or co-polymerisation of 50 tonnes or more of unsaturated hydrocarbons or of any such products or, in aggregate, of any combination of those materials and products.”;
  - (b) after paragraph (d) of Part A there shall be inserted the following paragraph—
    - “(e) Any process, if related to and carried on as part of a process falling within another paragraph of this Part of this Section, for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbons, or which contains any product of a process mentioned in paragraph (b) or (c) of Part A of this Section, which is likely to involve, in any 12 month period, the polymerisation or co-polymerisation of 100 tonnes or more of unsaturated hydrocarbons or of any such products or, in aggregate, of any combination of those materials and products.”;
  - (c) for Part B there shall be substituted the following—

## “PART B

Any process, unless related to and carried on as part of a process falling within Part A of this Section, for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbons, or which contains any product of a process mentioned in paragraph (b) or (c) of Part A of this Section, which is likely to involve, in any 12 month period, the polymerisation or co-polymerisation of 100 tonnes or more of unsaturated hydrocarbons or of any such products or, in aggregate, of any combination of those materials and products.”;

- (d) at the end there shall be added the following—
    - “In this Section and in Section 4.2, “pre-formulated resin or pre-formulated gel coat” means any resin or gel coat which has been formulated before being introduced into the polymerisation or co-polymerisation process (whether or not the resin or gel coat contains a colour pigment, activator or catalyst).”.
5. In Section 4.2 (the manufacture and use of organic chemicals)(7)—
- (a) for paragraph (aa) there shall be substituted the following—
    - “(aa) the polymerisation or co-polymerisation of styrene or vinyl chloride (other than the polymerisation or co-polymerisation of a pre-formulated resin or pre-formulated gel coat which contains any styrene) where the process is likely to involve, in any 12 month period, the polymerisation or co-polymerisation of 50 tonnes or more of either of those materials or, in aggregate, of both;”;

(6) Section 4.1 was amended by S.I. [1994/1271](#), Schedule 3, paragraph 24.

(7) Section 4.2 was amended by S.I. [1994/1271](#), Schedule 3, paragraph 25.

- (b) after paragraph (aa) there shall be inserted the following paragraph—
- “(ab) any process, if related to and carried on as part of a process falling within another paragraph of this Part of this Section, for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any styrene, which is likely to involve, in any 12 month period, the polymerisation or co-polymerisation of 100 tonnes or more of styrene;”;
- (c) for Part B there shall be substituted the following—

## “PART B

Any process, unless related to and carried on as part of a process falling within Part A of this Section, for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any styrene, which is likely to involve, in any 12 month period, the polymerisation or co-polymerisation of 100 tonnes or more of styrene.”.

6. In each of the following, that is to say—
- (a) paragraph (d) of Part A of Section 4.5 (inorganic chemical processes)(**8**);
  - (b) Part A of Section 4.7 (pesticide production)(**9**);
  - (c) Part A of Section 4.8 (pharmaceutical production)(**10**);
  - (d) paragraph (b) of Part A of Section 6.1 (paper and pulp manufacturing processes)(**11**); and
  - (e) paragraph (b) of Part A of Section 6.5 (coating processes and printing),

there shall be added at the end the words “in a quantity which, in any 12 month period, exceeds the background quantity by more than the amount specified in relation to the description of substance in column 2 of that Schedule”.

7. In Part A of Section 6.9 (the treatment and processing of animal or vegetable matter), for the words from “where” to “Schedule 5” there shall be substituted the words “if the process may result in the release into water of any substance described in Schedule 5 in a quantity which, in any 12 month period, exceeds the background quantity by more than the amount specified in relation to the description of substance in column 2 of that Schedule”.

## PART II

### AMENDMENTS OF SCHEDULE 2

8. In paragraph 2A of Schedule 2(**12**), after the words “Section 1.4,” there shall be inserted the words “Part A of Section 2.1.”.

9. For paragraph 6 of Schedule 2(**13**) there shall be substituted the following paragraph—

- “6. The following activities, that is to say—
- (a) the unloading, screening, grading, mixing or otherwise handling of petroleum coke, coal, lignite, coke or any other coal product;
  - (b) the unloading of iron ore or burnt pyrites,

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(8) Paragraph (d) was amended by S.I. 1993/2405, regulation 2(2).

(9) A new Part A was substituted by S.I. 1994/1271, Schedule 3, paragraph 30.

(10) A new part A was substituted by S.I. 1994/1271, Schedule 3, paragraph 31.

(11) Part A of Section 6.1 was amended by S.I. 1994/1271, Schedule 3, paragraph 35.

(12) Paragraph 2A was inserted by S.I. 1993/2405, regulation 3, and amended by S.I. 1994/1271, Schedule 4, paragraph 1.

(13) Paragraph 6 was amended by S.I. 1992/614, Schedule 1, paragraph 13.

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for use in a prescribed process by a person other than the person carrying on the process at the place where the process is carried on shall be treated as part of that process.”.

## PART III

### AMENDMENTS OF SCHEDULE 5

10. In Schedule 5(14), there shall be inserted in column 2—
- (a) in the entry relating to pentachlorophenol and its compounds, after “350” the words “(expressed as PCP)”;
  - (b) in the entry relating to tributyltin compounds, after “4” the words “(expressed as TBT)”;
  - (c) in the entry relating to triphenyltin compounds, after “4” the words “(expressed as TPT)”.

### SCHEDULE 2

Regulation 3

### TRANSITIONALS

#### Interpretation

1. 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(15);

“existing process” means a process—

- (a) which was being carried on some at some time in the 12 months immediately preceding 8th January 1996; 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 an 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;

(14) A new Schedule 5 was inserted by S.I. 1994/1271, regulation 4(5) and Schedule 5.

(15) S.I. 1992/530, amended by S.I. 1995/2742.

- (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<sup>(16)</sup>, 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<sup>(17)</sup>.

### **Processes, other than existing processes, which became Part A or Part B prescribed processes**

2. Regulation 3(3) of the principal Regulations (the prescribed date) shall not apply in respect of a process which is not an existing process and which falls within a description of process which, by virtue of regulation 2 above—

- (a) becomes a prescribed process on 8th January 1996 but immediately before that date was not a prescribed process;
- (b) becomes a Part A process on 8th January 1996 but immediately before that date was a Part B process; or
- (c) becomes a Part B process on 8th January 1996 but immediately before that date was a Part A process,

and for the purposes of regulation 3(1) of the principal Regulations the prescribed date in respect of any such process shall be 7th January 1996.

### **Existing processes which become Part A prescribed processes**

3.—(1) Where, by virtue of regulation 2 above, an existing process which immediately before 8th January 1996 is not a prescribed process or is a Part B Process 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 5 below, be whichever is the later of the following—
  - (i) 7th May 1996; or
  - (ii) where application is duly made to the central enforcing authority in accordance with section 6 of the Act before 8th May 1996 for authorisation to carry on the process, the determination date for that process.

### **Existing processes which become Part B prescribed processes**

4.—(1) Where, by virtue of regulation 2 above, an existing process which immediately before 8th January 1996 is not a prescribed process or is a Part A process 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;

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<sup>(16)</sup> S.I. 1991/507

<sup>(17)</sup> S.I. 1991/472; *see* regulation 2 for the definition of these terms.

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- (b) for the purposes of regulation 3(1) of the principal Regulations, the prescribed date in respect of that process shall, subject to paragraph 5 below, be whichever is the later of the following—
- (i) 7th January 1997; or
  - (ii) where application is duly made to the local enforcing authority in accordance with section 6 of the Act after 7th July 1996 and before 8th January 1997 for authorisation to carry on the process, the determination date for that process.
- (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 7th January 1996; 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 8th July 1994.

### **Substantial changes**

5.—(1) This paragraph applies where the person carrying on an existing process described in paragraph 3 or 4 above makes a substantial change in the process on or after 8th January 1996 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 and 4 above.

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

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## **EXPLANATORY NOTE**

(This note is not part of the Regulations)

These Regulations amend the Environmental Protection (Prescribed Processes and Substances) Regulations 1991 (S.I.1991/472), which relate to integrated pollution control and local air pollution control under Part I of the Environmental Protection Act 1990.

The Regulations amend the descriptions in Schedule 1 to the 1991 Regulations of the following processes:

- Section 1.1 (gasification and associated processes);
- Section 1.3 (combustion processes);
- Section 2.2 (non-ferrous metals);
- Section 4.1 (petrochemical processes);
- Section 4.2 (manufacture and use of organic chemicals);



- Section 4.5 (inorganic chemical processes);
- Section 4.7 (pesticide production);
- Section 4.8 (pharmaceutical production);
- Section 6.1 (paper and pulp manufacturing);
- Section 6.5 (coating processes and printing);
- Section 6.9 (treatment and processing of animal or vegetable matter).

The Regulations also make minor amendments to Schedules 2 and 5 to the 1991 Regulations, and make transitional provision as to the date from which authorisation under Part 1 of the Act is required to carry on a process which, by virtue of the amendments made by these Regulations, becomes or ceases to be subject to integrated pollution control or local air pollution control.

A compliance cost assessment in respect of these Regulations may be obtained from Air Quality Division, Department of the Environment, Romney House, 43 Marsham Street, London SW1P 3PY, Environment Division, Welsh Office, Cathays Park, Cardiff CF1 3NQ, or the Scottish Office, Agriculture Environment and Fisheries Department, 1H Victoria Quay, Edinburgh EH6 6QQ.