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STATUTORY INSTRUMENTS

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**2000 No. 1973**

**ENVIRONMENTAL PROTECTION,  
ENGLAND AND WALES**

**The Pollution Prevention and Control  
(England and Wales) Regulations 2000**

*Made* - - - - *21st July 2000*

*Coming into force* - - *1st August 2000*

The Secretary of State, in exercise of the powers conferred on him by section 2 of the Pollution Prevention and Control Act 1999(1) (the “1999 Act”), having, in accordance with section 2(4) of the 1999 Act, consulted the Environment Agency, such bodies or persons appearing to him to be representative of the interests of local government, industry, agriculture and small businesses respectively as he considers appropriate and such other bodies and persons as he considers appropriate, hereby makes the following Regulations, a draft of which has, in accordance with section 2(8) of that Act, been laid before, and approved by a resolution of, each House of Parliament

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**PART I**  
**GENERAL**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Pollution Prevention and Control (England and Wales) Regulations 2000 and shall come into force on the 1st August 2000.

(2) These Regulations extend to England and Wales only.

(3) For the purpose of paragraph (2), “England and Wales” includes the territorial waters adjacent to England and Wales.

**Interpretation: general**

2.—(1) In these Regulations, except in so far as the context otherwise requires—

“change in operation” means, in relation to an installation or mobile plant, a change in the nature or functioning or an extension of the installation or mobile plant which may have

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(1) 1999 c. 24; the Secretary of State can exercise these powers only in relation to England and Wales—see section 53 of the Scotland Act 1998 (c. 46) and section 5(3) of the Pollution Prevention and Control Act 1999.

consequences for the environment; and “substantial change in operation” means, in relation to an installation or mobile plant, a change in operation which, in the opinion of the regulator, may have significant negative effects on human beings or the environment;

“the Directive” means Council Directive 96/61/EC concerning integrated pollution prevention and control(2);

“emission” means—

- (i) in relation to Part A installations, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in an installation into the air, water or land;
- (ii) in relation to Part B installations, the direct release of substances or heat from individual or diffuse sources in an installation into the air;
- (iii) 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;
- (iv) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air;

“emission limit value” means the mass, expressed in terms of specific parameters, concentration or level of an emission, which may not be exceeded during one or more periods of time;

“enforcement notice” has the meaning given by regulation 24(1);

“general binding rules” has the meaning given by regulation 14(1);

“installation” means—

- (i) a stationary technical unit where one or more activities listed in Part 1 of Schedule 1 are carried out; and
- (ii) any other location on the same site where any other directly associated activities are carried out which have a technical connection with the activities carried out in the stationary technical unit and which could have an effect on pollution,

and, other than in Schedule 3, references to an installation include references to part of an installation;

“mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise and which is used to carry out one or more activities listed in Part 1 of Schedule 1;

“off-site condition” has the meaning given by regulation 12(12);

“operator”, subject to paragraph (2), means, in relation to an installation or mobile plant, the person who has control over its operation;

“Part A installation”, “Part A(1) installation”, “Part A(2) installation” and “Part B installation” shall be interpreted in accordance with Part 3 of Schedule 1;

“Part A mobile plant”, “Part A(1) mobile plant”, “Part A(2) mobile plant” and “Part B mobile plant” shall be interpreted in accordance with Part 3 of Schedule 1;

“permit” means a permit granted under regulation 10;

“pollution” means emissions as a result of human activity which may be harmful to human health or the quality of the environment, cause offence to any human senses, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment; and “pollutant” means any substance, vibration, heat or noise released as a result of such an emission which may have such an effect;

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(2) OJNo. L 257, 10.10.96, p. 26.

“regulator” means, in relation to the exercise of functions under these Regulations, the authority by whom, under regulation 8, the functions are exercisable; and “local authority regulator” means a regulator which is a local authority as defined in regulation 8(15) and (16); “revocation notice” has the meaning given by regulation 21(1);

“specified waste management activity” means any one of the following activities—

- (a) the disposal of waste in a landfill, whether or not the disposal falls within Section 5.2 of Part 1 of Schedule 1;
- (b) the disposal of waste falling within Section 5.3 of that Part of that Schedule;
- (c) the recovery of waste falling within paragraphs (i), (ii), (v) or (vii) of paragraph (c) of Part A(1) of Section 5.4 of that Part of that Schedule;

“substance” includes any chemical element and its compounds and any biological entity or micro-organism, with the exception of radioactive substances within the meaning of Council Directive 80/836/Euratom<sup>(3)</sup>, genetically modified micro-organisms within the meaning of Council Directive 90/219/EEC<sup>(4)</sup> and genetically modified organisms within the meaning of Council Directive 90/220/EEC<sup>(5)</sup>;

“suspension notice” has the meaning given by regulation 25(1);

“variation notice” has the meaning given by regulation 17(5).

(2) For the purposes of these Regulations—

- (a) where an installation or mobile plant has not been put into operation, the person who will have control over the operation of the installation or mobile plant when it is put into operation shall be treated as the operator of the installation or mobile plant;
- (b) where an installation or mobile plant has ceased to be in operation, the person who holds the permit which applies to the installation or mobile plant shall be treated as the operator of the installation or mobile plant.

(3) In these Regulations—

- (a) a reference to a release into water includes a release into a sewer (within the meaning of section 219(1) of the Water Industry Act 1991<sup>(6)</sup>);
- (b) a reference to a Council Directive is a reference to that Directive together with any amendment made before the date on which these Regulations are made.

(4) Part 1 of Schedule 1 shall be interpreted in accordance with the provisions as to interpretation in Part 1 and 2 of that Schedule.

(5) Parts 1 and 2 of Schedule 3 shall be interpreted in accordance with Part 3 of that Schedule.

### **Interpretation: “best available techniques”**

**3.—**(1) For the purpose of these Regulations, “best available techniques” means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole; and for the purpose of this definition—

- (a) “available techniques” means those techniques which have been developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the cost and advantages, whether

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<sup>(3)</sup> OJ No. L 246, 17.9.80, p. 1, as amended by Council Directive 84/467/Euratom (OJ L 265, 5.10.84, p. 4).

<sup>(4)</sup> OJ No. L 117, 8.5.90, p. 1.

<sup>(5)</sup> OJ No. L 117, 8.5.90, p. 15.

<sup>(6)</sup> 1991 c. 56.

or not the techniques are used or produced inside the United Kingdom, as long as they are reasonably accessible to the operator;

- (b) “best” means, in relation to techniques, the most effective in achieving a high general level of protection of the environment as a whole;
- (c) “techniques” includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.

(2) Schedule 2 shall have effect in relation to the determination of best available techniques.

### **Fit and proper person**

4.—(1) This regulation applies for the purpose of the discharge of any function under these Regulations which requires the regulator to determine whether a person is or is not a fit and proper person to carry out a specified waste management activity.

(2) Whether a person is or is not a fit and proper person to carry out a specified waste management activity shall be determined by reference to the fulfilment of the conditions of the permit which apply or will apply to the carrying out of that activity.

(3) Subject to paragraph (4), a person shall be treated as not being a fit and proper person if it appears to the regulator that—

- (a) he or another relevant person has been convicted of a relevant offence;
- (b) the management of the specified waste management activity which is or is to be carried out is not or will not be in the hands of a technically competent person; or
- (c) the person who holds or is to hold the permit has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the permit in relation to the specified waste management activity.

(4) The regulator may, if it considers it proper to do so in any particular case, treat a person as a fit and proper person notwithstanding that paragraph (3)(a) applies in his case.

(5) For the purposes of paragraph (3)—

- (a) “relevant offence” means an offence prescribed under section 74(6) of the Environmental Protection Act 1990(7) for the purposes of section 74(3)(a) of that Act; and
- (b) the qualifications and experience required of a person for the purposes of section 74(3)(b) of that Act which are prescribed under section 74(6) of that Act shall be treated as the qualifications and experience required of a person for the purposes of paragraph (3)(b).

(6) In paragraph (3)(a), “another relevant person” means, in relation to the holder or proposed holder of a permit—

- (a) any person who has been convicted of a relevant offence committed by him in the course of his employment by the holder or proposed holder of the permit or in the course of the carrying on of any business by a partnership one of the members of which was the holder or proposed holder of the permit;
- (b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder of the permit was a director, manager, secretary or other similar officer of that body corporate; or
- (c) where the holder or proposed holder of the permit is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate and who—
  - (i) has been convicted of a relevant offence; or

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(7) 1990 c. 43; see regulation 3 of the Waste Management Licensing Regulations 1994 (S.I.1994/1056).

- (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a relevant offence for which that other body corporate has been convicted was committed.

### **Application to the Crown**

5.—(1) Subject to the provisions of this regulation, these Regulations bind the Crown.

(2) No contravention by the Crown of any provision of these Regulations shall make the Crown criminally liable under regulation 32 and no proceedings may be taken against the Crown under regulation 33 but the High Court may, on the application of a regulator, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), the provisions of these Regulations shall apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any specified powers of entry exercisable under section 108 of the Environment Act 1995<sup>(8)</sup> in relation to functions conferred or imposed by these Regulations, that it is requisite or expedient that, in the interests of national security, the powers of entry should not be exercisable in relation to the premises, those powers shall not be exercisable in relation to those premises; and in this paragraph “specified” means specified in the certificate and “Crown premises” means premises held or used by or on behalf of the Crown.

(5) The following persons shall be treated as if they were the operator of the installation or mobile plant concerned for the purpose of any notice served or given or any proceedings instituted in relation to an installation or mobile plant operated or controlled by any person acting on behalf of the Royal Household, the Duchy of Lancaster or the Duke of Cornwall or other possessor of the Duchy of Cornwall—

- (a) in relation to an installation or mobile plant operated or controlled by a person acting on behalf of the Royal Household, the Keeper of the Privy Purse;
- (b) in relation to an installation or mobile plant operated or controlled by a person acting on behalf of the Duchy of Lancaster, such person as the Chancellor of the Duchy appoints in relation to that installation or mobile plant;
- (c) in relation to an installation or mobile plant operated or controlled by a person acting on behalf of the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints in relation to that installation or mobile plant.

### **Notices**

6.—(1) Any notice served or given under these Regulations by the Secretary of State or a regulator shall be in writing.

(2) Any such notice may be served on or given to a person by leaving it at his proper address or by sending it by post to him at that address.

(3) Any such notice may—

- (a) in the case of a body corporate, be served on the secretary or clerk of that body;
- (b) in the case of a partnership, be served on or given to a partner or person having the control or management of the partnership business.

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<sup>(8)</sup> 1995 c. 25.

(4) For the purpose of this regulation and of section 7 of the Interpretation Act 1978<sup>(8)</sup> (service of documents by post) in its application to this regulation, the proper address of any person on or to whom any such notice is to be served or given shall be his last known address, except that—

- (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
- (b) in the case of a partnership or person having the control or management of the partnership business, it shall be the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.

(5) If the person to be served with or given any such notice has specified an address in the United Kingdom other than his proper address within the meaning of paragraph (4) as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 as his proper address.

### **Applications**

7.—(1) A regulator may require any application or type of application made to it under any provision of these Regulations to be made on a form made available by the regulator.

(2) A form made available by a regulator under paragraph (1) shall specify the information required by the regulator to determine the application, which shall include any information required to be contained in the application by the provision of these Regulations under which the application is made.

(3) Where a regulator makes available a form under paragraph (1) in relation to the making of applications to it under a provision of these Regulations any application made to it under that provision shall be made on that form.

(4) Any application made under these Regulations may, with the agreement of the regulator, be sent to the regulator electronically.

(5) Where an application which is required to be accompanied by a fee, map or plan is sent electronically, the fee, map or plan may be sent to the regulator separately from the application but the application shall not be treated as having been received by the regulator until the fee, map or plan has also been received.

(6) An application made under these Regulations may be withdrawn at any time before it is determined.

### **Discharge and scope of functions**

8.—(1) This regulation determines the authority by whom the functions conferred or imposed by these Regulations on a regulator are exercisable and the purposes for which they are exercisable.

(2) Those functions, in their application to a Part A(1) installation or Part A(1) mobile plant, shall be functions of the Environment Agency<sup>(9)</sup> and shall be exercisable 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.

(3) Subject to regulation 13, those functions, in their application to a Part A(2) installation or Part A(2) mobile plant, shall be functions of the local authority in whose area the installation is (or will be) situated or the mobile plant is (or will be) operated and shall be exercisable for the purpose of

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<sup>(8)</sup> 1995 c. 25.

<sup>(9)</sup> See section 1 of the Environment Act 1995 (1995 c. 25).

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.

(4) Those functions, in their application to a Part B installation, shall be functions of the local authority in whose area the installation is (or will be) situated and shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(5) Those functions, in their application to a Part B mobile plant, shall be functions of—

- (a) where the operator of the mobile plant has his principal place of business in England and Wales, the local authority in whose area that place of business is;
- (b) where the operator of the mobile plant has his principal place of business outside of England and Wales and the mobile plant is not covered by a permit, the local authority in whose area the plant is first operated or, where the plant has not been operated in England and Wales, the local authority in whose area it is intended by the operator that the plant should first be operated;
- (c) where the operator has his principal place of business outside of England and Wales and the mobile plant is covered by a permit, the local authority which granted the permit,

and shall be exercisable for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

(6) The Secretary of State may, as respects functions under these Regulations exercisable by a local authority specified in the direction, direct that those functions shall be exercised instead by the Environment Agency while the direction remains in force or during a period specified in the direction.

(7) A transfer of functions under paragraph (6) to the Environment Agency relating to Part B installations or Part B mobile plant does not make them exercisable by the Agency for any other purpose than that mentioned in paragraphs (4) and (5).

(8) The Secretary of State may, as respects functions under these Regulations exercisable by the Environment Agency specified in the direction, direct that those functions shall be exercised instead by a local authority while the direction remains in force or during a period specified in the direction.

(9) A direction under paragraph (6) may transfer functions exercisable by a local authority in relation to all or any description of installations or mobile plant (a “general direction”) or in relation to a specific installation or mobile plant specified in the direction (a “specific direction”) but a direction under paragraph (8) may only be a specific direction.

(10) A direction under paragraph (6) or (8) may include such saving and transitional provisions as the Secretary of State considers necessary or expedient.

(11) The Secretary of State, on giving or withdrawing a general direction under paragraph (6), shall—

- (a) serve notice of it on the Environment Agency and on the local authorities affected by the direction; and
- (b) cause notice of it to be published as soon as practicable in the London Gazette and in at least one newspaper circulating in the area of each authority affected by the direction,

and any such notice shall specify the date on which the direction is to take (or took) effect and (where appropriate) its duration.

(12) The Secretary of State, on giving or withdrawing a specific direction under paragraph (6) or (8), shall—

- (a) serve notice on the Environment Agency, the local authority and the operator or the person appearing to the Secretary of State to be the operator of the installation or mobile plant affected; and

- (b) cause notice of it to be published in the London Gazette and in at least one newspaper circulating in the authority's area,

and any such notice shall specify the date on which the direction is to take (or took) effect and (where appropriate) its duration.

(13) The requirements of sub-paragraph (b) of paragraph (11), or, as the case may be, sub-paragraph (b) of paragraph (12) shall not apply in any case where, in the opinion of the Secretary of State, the publication of the notice in accordance with that sub-paragraph would be contrary to the interests of national security.

(14) It shall be the duty of regulators to follow developments in best available techniques.

(15) In this regulation, "local authority" means, subject to paragraph (16)—

- (a) in Greater London, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;
- (b) in England outside Greater London, a district council or, in relation to an area for which there is a county council but no district council, the county council, and the Council of the Isles of Scilly;
- (c) in Wales, a county council or county borough council.

(16) Where, by an order under section 2 of the Public Health (Control of Disease) Act 1984<sup>(10)</sup>, a port health authority has been constituted for any port health district, the port health authority shall have, as respects its district, the functions conferred or imposed by these Regulations in their application to a Part B installation; and "local authority" and "area" shall be construed accordingly.

## PART II

### PERMITS

#### **Requirement for permit to operate installation and mobile plant**

**9.**—(1) No person shall operate an installation or mobile plant after the prescribed date for that installation or mobile plant except under and to the extent authorised by a permit granted by the regulator.

(2) In paragraph (1), the "prescribed date" means the appropriate date set out in or determined in accordance with Schedule 3.

#### **Permits: general provisions**

**10.**—(1) An application for a permit to operate an installation or mobile plant shall be made to the regulator in accordance with paragraphs 1 to 3 of Part I of Schedule 4 and shall be accompanied by any fee prescribed in respect of the application under section 41 of the Environment Act 1995<sup>(11)</sup> or regulation 22.

(2) Subject to paragraphs (3) and (4), where an application is duly made to the regulator, the regulator shall either grant the permit subject to the conditions required or authorised to be imposed by regulation 12 or refuse the permit.

(3) A permit shall not be granted if the regulator considers that the applicant will not be the person who will have control over the operation of the installation or mobile plant concerned after the grant

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<sup>(10)</sup> 1984 c. 22.

<sup>(11)</sup> The definition of "environmental licences" in section 56(1) of the 1995 Act, which defines that expression for the purposes of section 41 of that Act, is amended by paragraph 15 of Schedule 10 to these Regulations.

of the permit or will not ensure that the installation or mobile plant is operated so as to comply with the conditions which would be included in the permit.

(4) In the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation or by means of mobile plant, the permit shall not be granted unless—

- (a) the regulator is satisfied that the applicant is a fit and proper person to carry out that activity; and
- (b) in the case of an installation where the use of the application site for the carrying out of that activity requires planning permission granted under the Town and Country Planning Act 1990(12), such planning permission is in force in relation to that use of the land.

(5) For the purpose of paragraph (4)(b), a certificate under section 191 of the Town and Country Planning Act 1990 (certificate of lawful use or development) in relation to the use of the application site for the carrying out of the specified waste management activity, and an established use certificate under section 192 of that Act, as originally enacted, in relation to that use which continues to have effect for the purpose of subsection (4) of that section, shall be treated as if it were a grant of planning permission for that use(13).

(6) A permit may authorise the operation of—

- (a) more than one Part A installation or Part A mobile plant on the same site operated by the same operator;
- (b) more than one Part B installation on the same site operated by the same operator; or
- (c) more than one Part B mobile plant operated by the same operator,

but may not otherwise authorise the operation of more than one installation or mobile plant.

(7) A permit authorising the operation of a Part A mobile plant may only authorise the operation of that plant on a site specified in the permit and only one site may be specified in each such permit (accordingly, the operation of the plant on a different site shall require a distinct permit).

(8) A permit authorising the operation of an installation or Part A mobile plant shall include a map or plan showing the site of the installation or plant covered by the permit and, in the case of an installation, the location of the installation on that site.

(9) A permit shall be transferred only in accordance with regulation 18 and shall cease to have effect only in accordance with regulation 19 or 20 (surrender) or regulation 21 (revocation) or paragraph (10) (consolidation).

(10) Where—

- (a) the conditions of a permit have been varied under regulation 17 or affected by a partial transfer, surrender or revocation under regulations 18 to 21; or
- (b) there is more than one permit applying to installations on the same site operated by the same operator or to mobile plant operated by the same operator,

the regulator may replace the permit or permits, as the case may be, with a consolidated permit applying to the same installations or mobile plant and subject to the same conditions as the permit or permits being replaced.

(11) Paragraphs 4 to 8 of Part 1 of Schedule 4 shall have effect with respect to applications made under paragraph (1).

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(12) 1990 c. 8.

(13) Section 10(1) of the Planning and Compensation Act 1991 (c. 34) substituted new sections for sections 191 and 192 of the Town and Country Planning Act 1990 but article 3(2) of the Planning and Compensation Act 1991 (Commencement No. 11 and Transitional Provisions) Order 1992 (S.I. 1992/1630) provides that section 192(4) of the 1990 Act as originally enacted shall continue to apply for the purpose of established use certificates granted under the 1990 Act notwithstanding the repeal of that section by section 10(1) of the 1991 Act.

(12) Part 2 of Schedule 4 shall have effect in relation to the determination of applications for permits.

(13) Parts 1 and 2 of Schedule 4 shall have effect subject to Part 3 of that Schedule (national security).

(14) This regulation is subject to paragraphs 5 and 9 of Schedule 3 (applications for a permit to operate existing installations or mobile plant, as defined in that Schedule).

### **Conditions of permits: general principles**

**11.**—(1) When determining the conditions of a permit, the regulator shall take account of the general principles set out in paragraph (2) and, in the case of a permit authorising the operation of a Part A installation or Part A mobile plant, the additional general principles set out in paragraph (3).

(2) The general principles referred to in paragraph (1) are that installations and mobile plant should be operated in such a way that—

- (a) all the appropriate preventative measures are taken against pollution, in particular through application of the best available techniques; and
- (b) no significant pollution is caused.

(3) The additional general principles referred to in paragraph (1) in relation to a permit authorising the operation of a Part A installation or a Part A mobile plant are that the installation or mobile plant should be operated in such a way that—

- (a) waste production is avoided in accordance with Council Directive [75/442/EEC](#) on waste<sup>(14)</sup>; and where waste is produced, it is recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment;
- (b) energy is used efficiently;
- (c) the necessary measures are taken to prevent accidents and limit their consequences,

and that, upon the definitive cessation of activities, the necessary measures should be taken to avoid any pollution risk and to return the site of the installation or mobile plant to a satisfactory state.

### **Conditions of permits: specific requirements**

**12.**—(1) Subject to paragraphs (15) and (16) and regulations 13 and 14, there shall be included in a permit—

- (a) such conditions as the regulator considers appropriate to comply with paragraphs (2) to (8); and
- (b) in relation to any Part A installation or Part A mobile plant authorised by the permit—
  - (i) such other conditions applying in relation to the Part A installation or Part A mobile plant as the regulator considers appropriate to comply with paragraph (9); and
  - (ii) such other conditions (if any) applying in relation to the Part A installation or Part A mobile plant, in addition to those required by sub-paragraphs (a) and (b)(i), as appear to the regulator to be appropriate, when taken with the condition implied by paragraph (10), for the purpose of ensuring a high level of protection for the environment as a whole, taking into account, in particular, the general principles set out in regulation 11;

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<sup>(14)</sup> OJ No. L 194, 25.7.75, p. 39, as amended by Council Directives [91/156/EEC](#) (OJ L 78, 26.3.91, p. 32) and [91/692/EEC](#) (OJ L 377, 31.12.91, p. 48) and Commission Decision [96/350/EC](#) (OJ No. L 135, 6.6.96, p. 32).

(c) in relation to any Part B installation or Part B mobile plant authorised by the permit, such other conditions (if any) applying in relation to the Part B installation or Part B mobile plant as appear to the regulator to be appropriate, when taken with the condition implied by paragraph (10), for the purpose of preventing or, where that is not practicable, reducing emissions into the air, taking into account, in particular, the general principles set out in regulation 11(2).

(2) Subject to paragraph (8), a permit shall include emission limit values for pollutants, in particular those listed in Schedule 5, likely to be emitted from the installation or mobile plant in significant quantities, having regard to their nature and, in the case of emissions from a Part A installation or a Part A mobile plant, their potential to transfer pollution from one environmental medium to another.

(3) Where appropriate, the emission limit values required by paragraph (2) may apply to groups of pollutants rather than to individual pollutants.

(4) The emission limit values required by paragraph (2) shall normally apply at the point at which the emissions leave the installation or mobile plant, any dilution being disregarded when determining them.

(5) The effect of a waste water treatment plant may be taken into account when determining the emission limit values applying in relation to indirect releases into water from a Part A installation or Part A mobile plant provided that an equivalent level of protection of the environment as a whole is guaranteed and taking such treatment into account does not lead to higher levels of pollution.

(6) Subject to paragraph (7), the emission limit values required by paragraph (2) shall be based on the best available techniques for the description of installation or mobile plant concerned but shall take account of the technical characteristics of the particular installation or mobile plant being permitted, and, in the case of an installation or Part A mobile plant, its geographical location and the local environmental conditions.

(7) Where an environmental quality standard requires stricter emission limit values than those that would be imposed pursuant to paragraph (6), paragraph (2) shall require those stricter emission limit values; and for the purpose of this paragraph “environmental quality standard” means the set of requirements which must be fulfilled at a given time by a given environment or particular part thereof, as set out in Community legislation<sup>(15)</sup>.

(8) Where appropriate, the emission limit values required by paragraph (2) may be supplemented or replaced by equivalent parameters or technical measures.

(9) A permit authorising the operation of a Part A installation or Part A mobile plant shall also include conditions—

- (a) aimed at minimising long distance and transboundary pollution;
- (b) ensuring, where necessary, appropriate protection of the soil and groundwater and appropriate management of waste generated by the installation or mobile plant;
- (c) relating to the periods when the installation or mobile plant is not operating normally where there is a risk that the environment may be adversely affected during such periods, including, in particular, conditions relating to the start up of operations, leaks, malfunctions and momentary stoppages;
- (d) setting out the steps to be taken prior to the operation of the installation or mobile plant and after the definitive cessation of operations;

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<sup>(15)</sup> See, for example, in relation to air quality standards, Council Directives [80/779/EEC](#) (sulphur dioxide and suspended particulates) (OJ No. L 229, 30.8.80, p. 30), [82/884/EEC](#) (lead) (OJ No. L 378, 31.12.82, p. 15), [85/293/EEC](#) (nitrogen dioxide) (OJ No. L 87, 27.3.85, p. 1) and [92/72/EEC](#) (ozone) (OJ No. L 297, 13.10.92, p. 1). In relation to water quality standards, see, for example, Council Directives [75/440](#) (quality required of surface freshwater intended for the abstraction of drinking water) (OJ No. L 194, 25.7.75, p. 48), [78/659/EEC](#) (quality required of freshwaters in order to support fish life) (OJ L 222, 14.8.78, p. 1) and [79/923/EEC](#) (quality required of shellfish waters) (OJ No. L 281, 10.11.79, p. 47).

- (e) setting out suitable emission monitoring requirements, specifying the measurement methodology and frequency and the evaluation procedure, and ensuring that the operator supplies the regulator with the data required to check compliance with the permit;
- (f) requiring the operator to supply the regulator regularly with the results of the monitoring of emissions and to inform the regulator, without delay, of any incident or accident which is causing or may cause significant pollution.

(10) Subject to paragraph (11), there is implied in every permit a condition that, in operating the installation or mobile plant, the operator shall use the best available techniques for preventing or, where that is not practicable, reducing emissions from the installation or mobile plant.

(11) The obligation implied by virtue of paragraph (10) shall not apply in relation to any aspect of the operation of the installation or mobile plant in question which is regulated by a condition imposed under any other paragraph of this regulation.

(12) A permit authorising the operation of an installation or Part A mobile plant may include a condition (an “off-site condition”) requiring an operator to carry out works or do other things in relation to land not forming part of the site of the installation or mobile plant notwithstanding that he is not entitled to carry out the works or do the things and any person whose consent would be required shall grant, or join in granting, the operator such rights in relation to that land as will enable the operator to comply with any requirements imposed on him by the permit.

(13) Schedule 6 shall have effect in relation to compensation where rights are granted pursuant to paragraph (12).

(14) A permit may, without prejudice to the generality of the previous provisions of this regulation, include conditions—

- (a) imposing limits on the amount or composition of any substance produced or utilised during the operation of the installation or mobile plant in any period;
- (b) which are supplemental or incidental to other conditions contained in the permit.

(15) The Secretary of State may give directions to regulators—

- (a) as to the specific conditions which are, or are not, to be included in all permits, in permits of a specified description or in any particular permit;
- (b) as to the objectives which are to be achieved by conditions included in such permits,

and the regulators shall include in such permits such conditions as are specified or required to comply with such directions.

(16) Guidance issued by the Secretary of State under regulation 37 may sanction reliance by a regulator on any arrangements referred to in the guidance to operate to secure a particular result as an alternative to including a condition in the permit pursuant to this regulation.

(17) Where a Part B mobile plant authorised by a permit is used to carry out an activity on the site of an installation which is authorised by a separate permit, then if different requirements are imposed in the permits as respect the carrying out of the activity the requirements in the permit authorising the operation of the installation shall prevail in the event of any inconsistency.

### **Conditions of permits: Environment Agency notice in relation to emissions into water**

**13.—**(1) In the case of a Part A installation or Part A mobile plant in relation to which a local authority regulator exercises functions under these Regulations, the Environment Agency may, at any time, give notice to the local authority regulator specifying the emission limit values or conditions (not containing emission limit values) which it considers are appropriate in relation to preventing or reducing emissions into water.

(2) Where a notice under paragraph (1) specifies emission limit values, the emission limit values required by paragraph (2) of regulation 12 in relation to emissions into water from the installation or

mobile plant concerned shall be those specified in that notice or such stricter emission limit values as may be determined by the local authority regulator in accordance with paragraph (6) of that regulation or required by paragraph (7) of that regulation.

(3) Where a notice under paragraph (1) specifies conditions in relation to emissions into water from an installation or mobile plant, the permit authorising the operation of that installation or mobile plant shall include those conditions or any more onerous conditions dealing with the same matters as the local authority regulator considers to be appropriate.

### **General binding rules**

**14.**—(1) Subject to paragraph (2), the Secretary of State may make rules (“general binding rules”) containing requirements applying to certain types of installation or mobile plant.

(2) The Secretary of State shall only make general binding rules under this regulation applying to Part A installations or Part A mobile plant if he is satisfied that the operation of such installations or mobile plant under the rules will result in the same high level of environmental protection and integrated prevention and control of pollution as would result from the operation of the installations or mobile plant under the conditions that would be included in the permits for those installations or mobile plant pursuant to regulation 12 if the rules did not apply.

(3) Where the Secretary of State makes general binding rules a regulator may, at the request of the operator, include in a permit authorising the operation of an installation or mobile plant covered by the rules a condition (a “general binding rules condition”) providing that the aspects of the operation of the installation or mobile plant covered by the requirements in the rules shall be subject to those requirements instead of to conditions included in the permit pursuant to regulation 12.

(4) Where a permit includes a general binding rules condition the requirements in the general binding rules shall be treated as if they were conditions of the permit for the purpose of regulations 23, 24 and 32(1)(b).

(5) The Secretary of State may vary general binding rules by means of a notice of variation specifying the variations and the date on which the variations are to take effect, which shall be not less than 3 months after the date on which notice of the variation is given in the London Gazette pursuant to paragraph (9)(c).

(6) The Secretary of State may revoke general binding rules by means of a notice of revocation.

(7) Where aspects of the operation of an installation or mobile plant are covered by the requirements in general binding rules which are revoked, the regulator shall vary the permit authorising the operation of the installation or mobile plant under regulation 17 to delete the general binding rules condition and to insert the conditions that will be required by regulations 11 and 12 when the requirements in the general binding rules no longer apply.

(8) Where the Secretary of State revokes general binding rules the requirements in the general binding rules shall continue to be treated under paragraph (4) as if they were conditions of a permit until the variations of the permit required by paragraph (7) take effect.

(9) Where the Secretary of State makes, varies or revokes general binding rules he shall—

- (a) serve a copy of the rules, notice of variation or notice of revocation on the Environment Agency and on all local authority regulators;
- (b) publish the rules, notice of variation or notice of revocation in such manner as he considers appropriate for the purpose of bringing the rules or notice to the attention of operators likely to be affected by them;
- (c) give notice of the making, variation or revocation of the rules in the London Gazette.

### **Review of conditions of permits**

15.—(1) Regulators shall periodically review the conditions of permits and may do so at any time.

(2) Without prejudice to paragraph (1), a review of a permit under this regulation shall be carried out where—

- (a) the pollution caused by the installation or mobile plant covered by the permit is of such significance that the existing emission limit values of the permit need to be revised or new emission limit values need to be included in the permit;
- (b) substantial changes in the best available techniques make it possible to reduce emissions from the installation or mobile plant significantly without imposing excessive costs; or
- (c) the operational safety of the activities carried out in the installation or mobile plant requires other techniques to be used.

### **Proposed change in the operation of an installation**

16.—(1) Subject to paragraph (4), where an operator of an installation which is permitted under these Regulations proposes to make a change in the operation of that installation he shall, at least 14 days before making the change, notify the regulator.

(2) A notification under paragraph (1) shall be in writing and shall contain a description of the proposed change in the operation of the installation.

(3) A regulator shall, by notice served on the operator, acknowledge receipt of any notification received under paragraph (1).

(4) Paragraph (1) shall not apply where the operator applies under regulation 17(2) for the variation of the conditions of his permit before making the proposed change and the application contains a description of the change.

### **Variation of conditions of permits**

17.—(1) The regulator may at any time vary the conditions of a permit and shall do so if it appears to the regulator at that time, whether as a result of a review under regulation 15, a notification under regulation 13 or 16 or otherwise, that regulations 11 and 12 require conditions to be included which are different from the subsisting conditions.

(2) An operator of an installation or mobile plant which is permitted under these Regulations may apply to the regulator for the variation of the conditions of his permit.

(3) An application under paragraph (2) shall be made in accordance with paragraph 1 of Part 1 of Schedule 7 and shall be accompanied by any fee prescribed in respect of the application under section 41 of the Environment Act 1995 or regulation 22; and paragraphs 2 and 3 of Part 1 of Schedule 7 shall have effect with respect to such applications.

(4) Where an application is duly made to the regulator under paragraph (2), the regulator shall determine, in accordance with regulations 11 and 12, whether to vary the conditions of the permit.

(5) Where the regulator decides to vary the conditions of the permit, whether on an application under paragraph (2) or otherwise, it shall serve a notice on the operator (a “variation notice”) specifying the variations of the conditions of the permit and the date or dates on which the variations are to take effect and, unless the notice is withdrawn, the variations specified in the notice shall take effect on the date or dates so specified.

(6) A variation notice served under paragraph (5) shall, unless served for the purpose of determining an application under paragraph (2), require the operator to pay, within such period as may be specified in the notice, any fee prescribed in respect of the variation notice under section 41 of the Environment Act 1995 or regulation 22.

(7) Where the regulator decides on an application under paragraph (2) not to vary the conditions of the permit, it shall give notice of its decision to the operator.

(8) Part 2 of Schedule 7 shall have effect in relation to the determination of applications under paragraph (2) and the issuing of variation notices.

(9) Parts 1 and 2 of Schedule 7 shall have effect subject to Part 3 of that Schedule (national security).

(10) This regulation and Schedule 7 apply to the variation of any provision other than a condition which is contained in a permit as they apply to the variation of a condition.

### **Transfer of permits**

**18.**—(1) Where the operator of an installation or mobile plant wishes to transfer, in whole or in part, his permit to another person (“the proposed transferee”) the operator and the proposed transferee shall jointly make an application to the regulator to effect the transfer.

(2) An application under paragraph (1) shall be accompanied by the permit and any fee prescribed in respect of the transfer under section 41 of the Environment Act 1995 or regulation 22 and shall contain—

- (a) the operator’s and the proposed transferee’s telephone number and address and, if different, any address to which correspondence relating to the application should be sent;
- (b) in the case of an application to effect the transfer of a permit or part of a permit that authorises the carrying out of a specified waste management activity, any information which the applicants wish the regulator to take into account when considering whether the transferee is a fit and proper person to carry out that activity.

(3) Where the operator wishes to retain part of his permit (a “partial transfer”), an application under paragraph (1) shall—

- (a) identify the installation or mobile plant to which the transfer applies (the “transferred unit”); and
- (b) where the transfer applies to the operation of an installation or Part A mobile plant, contain a map or plan identifying the part of the site used for the operation of that installation or mobile plant (the “identified part of the site”).

(4) Subject to paragraph (5), the regulator shall effect the transfer unless the regulator considers that the proposed transferee will not be the person who will have control over the operation of the installation or mobile plant covered by the transfer after the transfer is effected or will not ensure compliance with the conditions of the transferred permit.

(5) In the case of an application to effect the transfer of a permit or part of a permit which authorises the carrying out of a specified waste management activity, the regulator shall only effect the transfer if the regulator is satisfied that the proposed transferee is a fit and proper person to carry out that activity.

(6) The regulator shall effect a transfer under this regulation by—

- (a) in the case of a partial transfer—
  - (i) issuing a new permit to the proposed transferee which applies to the transferred unit and, where the transfer applies to the operation of an installation or Part A mobile plant, the identified part of the site covered by the transfer, and includes the conditions required by paragraph (7); and
  - (ii) returning the original permit to the operator, endorsed to record the transfer and varied to show the installation or mobile plant and, where the transfer applies to the operation of an installation or Part A mobile plant, the site covered by the

permit after the transfer and the conditions applying after the transfer as required by paragraph (7);

- (b) in the case of a transfer of the whole permit, causing the permit to be endorsed with the name and other particulars of the proposed transferee as the operator of the installation or mobile plant concerned,

and the transfer shall take effect from such date as may be agreed with the applicants and specified in the endorsement and, in the case of a partial transfer, the new permit.

(7) In the case of a partial transfer effected under this regulation, the conditions included in the new permit and original permit after the transfer shall be the same as the conditions included in the original permit immediately before the transfer in so far as they are relevant to any installation, site and mobile plant covered by the new permit or the original permit, as the case may be, but subject to such variations as, in the opinion of the regulator, are necessary to take account of the transfer.

(8) If within the period of two months beginning with the date on which the authority receives an application under paragraph (1), or within such longer period as the regulator and the applicants may agree in writing, the regulator has neither effected the transfer nor given notice to the applicants that it has rejected the application, the application shall, if the applicants notify the regulator in writing that they treat the failure as such, be deemed to have been refused at the end of that period or that longer period, as the case may be.

(9) The regulator may, by notice, require the operator or the proposed transferee to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining an application under this regulation.

(10) Where a notice is served on an operator or proposed transferee under paragraph (9)—

- (a) for the purpose of calculating the period of two months mentioned in paragraph (8), no account shall be taken of the period beginning with the date on which notice is served and ending on the date on which the information specified in the notice is furnished; and
- (b) if the specified information is not furnished within the period specified, the application shall, if the regulator gives notice to the operator and proposed transferee that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

#### **Application to surrender a permit for a Part A installation or Part A mobile plant**

**19.**—(1) This regulation applies where an operator of a Part A installation or Part A mobile plant ceases or intends to cease operating the installation (in whole or in part) or the mobile plant.

(2) Where this regulation applies, the operator may—

- (a) if he has ceased or intends to cease operating all of the installations and mobile plant covered by the permit, apply to the regulator to surrender the whole permit;
- (b) in any other case, apply to the regulator to surrender the permit in so far as it authorises the operation of the installation or mobile plant (“the surrender unit”) which he has ceased or intends to cease operating (a “partial surrender”).

(3) An application under paragraph (2) shall be accompanied by any fee prescribed in respect of the application under section 41 of the Environment Act 1995 or regulation 22, and shall contain the following information—

- (a) the operator’s telephone number and address and, if different, any address to which correspondence relating to the application should be sent;
- (b) in the case of a partial surrender, a description of the surrender unit and a map or plan identifying the part of the site used for the operation of the surrender unit (the “identified part of the site”);

- (c) a site report describing the condition of the site, or the identified part of the site, as the case may be (“the report site”), identifying, in particular, any changes in the condition of the site as described in the site report contained in the application for the permit; and
- (d) a description of any steps that have been taken to avoid any pollution risk on the report site resulting from the operation of the installation or mobile plant or to return it to a satisfactory state.

(4) If the regulator is satisfied, in relation to the report site, that such steps (if any) as are appropriate to avoid any pollution risk resulting from the operation of the Part A installation or Part A mobile plant and to return the site to a satisfactory state have been taken by the operator, it shall accept the surrender and give the operator notice of its determination and the permit shall cease to have effect or, in the case of partial surrender, shall cease to have effect to the extent surrendered, on the date specified in the notice of determination.

(5) If, in the case of a partial surrender, the regulator is of the opinion that it is necessary to vary the conditions included in the permit to take account of the surrender, the regulator shall specify the necessary variations in the notice of determination given under paragraph (4) and the variations specified in the notice shall take effect on the date specified in the notice.

(6) If the regulator is not satisfied as mentioned in paragraph (4), it shall give to the operator a notice of its determination stating that the application has been refused.

(7) The regulator shall give notice of its determination of an application under this regulation within the period of three months beginning with the date on which the regulator receives the application or within such longer period as the regulator and the operator may agree in writing.

(8) If the regulator fails to give notice of its determination accepting the surrender or refusing the application within the period allowed by or under paragraph (7) the application shall, if the operator notifies the regulator in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

(9) The regulator may, by notice to the operator, require him to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining an application under this regulation.

(10) Where a notice is served on an operator under paragraph (9)—

- (a) for the purpose of calculating the period of three months mentioned in paragraph (7), no account shall be taken of the period beginning with the date on which notice is served and ending on the date on which the information specified in the notice is furnished; and
- (b) if the specified information is not furnished within the period specified the application shall, if the regulator gives notice to the operator that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

(11) For the purpose of deciding whether a pollution risk results from the operation of a Part A installation or Part A mobile plant for the purpose of this regulation—

- (a) where the operation of the installation or plant involved the carrying out of a specified waste management activity, only risks resulting from carrying out that activity after the relevant date for that activity shall be treated as resulting from the operation of the installation or mobile plant;
- (b) where the operation of the installation or mobile plant involved the carrying out of other activities, only risks resulting from the carrying out of those other activities after the date on which the permit applying to the installation or mobile plant was granted shall be treated as resulting from the operation of the installation or mobile plant.

(12) The relevant date for a specified waste management activity for the purpose of paragraph (11)

(a) is—

- (a) where the activity was carried out on the site of the installation or mobile plant under a waste management licence which, by virtue of section 35(11A) of the Environmental Protection Act 1990<sup>(16)</sup>, ceased to have effect in relation to the carrying out of that activity on that site on the granting of the permit applying to the installation or mobile plant, the date on which that waste management licence was granted;
- (b) in any other case, the date on which the permit applying to the installation or mobile plant was granted.

(13) In paragraph (12)(a), “waste management licence” has the same meaning as in section 35(12) of the Environmental Protection Act 1990 (and includes a disposal licence which is treated as a site licence by virtue of section 77(2) of that Act).

### **Notification of surrender of a permit for a Part B installation or Part B mobile plant**

**20.**—(1) This regulation applies where an operator of a Part B installation or Part B mobile plant ceases or intends to cease operating the installation (in whole or in part) or the mobile plant.

- (2) Where this regulation applies, the operator may—
  - (a) if he has ceased or intends to cease operating all of the installations and mobile plant covered by the permit, notify the regulator of the surrender of the whole permit;
  - (b) in any other case, notify the regulator of the surrender of the permit in so far as it authorises the operation of the installation or mobile plant (“the surrender unit”) which he has ceased or intends to cease operating (a “partial surrender”).
- (3) A notification under paragraph (2) shall contain the following information—
  - (a) the operator’s telephone number and address and, if different, any address to which correspondence relating to the notification should be sent;
  - (b) in the case of a partial surrender of a permit applying to Part B installations, a description of the surrender unit and a map or plan identifying the part of the site used for the operation of the surrender unit (the “identified part of the site”);
  - (c) in the case of a partial surrender of a permit applying to Part B mobile plant, a list of the mobile plant to which it applies;
  - (d) the date on which the surrender is to take effect, which shall be at least 28 days after the date on which the notice is served on the regulator.

(4) Subject to paragraph (5), where a surrender is notified under this regulation the permit shall cease to have effect on the date specified in the notification or, in the case of partial surrender, shall cease to have effect on that date to the extent surrendered.

(5) If, in the case of a partial surrender, the regulator is of the opinion that it is necessary to vary the conditions of the permit to take account of the surrender, the regulator shall—

- (a) notify the operator of its opinion; and
- (b) serve a variation notice under regulation 17 on the operator specifying the variations of the conditions necessitated by the surrender,

and the permit shall cease to have effect to the extent surrendered on the date on which the variations specified in the variation notice take effect if that date is after the date specified in the notification of the surrender.

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<sup>(16)</sup> Section 35(11A) is inserted by paragraph 5(b) of Schedule 10.

## Revocation of permits

21.—(1) The regulator may at any time revoke a permit, in whole or in part, by serving a notice (“a revocation notice”) on the operator.

(2) Without prejudice to the generality of paragraph (1), the regulator may serve a notice under this regulation in relation to a permit where—

(a) the permit authorises the carrying out of a specified waste management activity and it appears to the regulator that the operator of the installation or mobile plant concerned has ceased to be a fit and proper person to carry out that activity by reason of his having been convicted of a relevant offence within the meaning of regulation 4(5)(a) or by reason of the management of that activity having ceased to be in the hands of a technically competent person;

(b) the holder of the permit has ceased to be the operator of the installation or mobile plant covered by the permit.

(3) A revocation notice may—

(a) revoke a permit entirely;

(b) revoke a permit only in so far as it authorises the operation of some of the installations or mobile plant to which it applies;

(c) revoke a permit only in so far as it authorises the carrying out of some of the activities which may be carried out in an installation or by means of mobile plant to which it applies.

(4) A revocation notice shall specify—

(a) in the case of a revocation mentioned in sub-paragraph (b) or (c) of paragraph (3) (a “partial revocation”), the extent to which the permit is being revoked;

(b) in all cases, the date on which the revocation shall take effect, which shall be at least 28 days after the date on which the notice is served.

(5) If, in the case of a revocation mentioned in sub-paragraph (a) or (b) of paragraph (3) applying to a Part A installation or Part A mobile plant, the regulator considers that it is appropriate to require the operator to take steps, once the installation or mobile plant is no longer in operation, to—

(a) avoid any pollution risk resulting from the operation of the installation or mobile plant on the site or, in the case of a partial revocation, that part of the site used for the operation of that installation or mobile plant, or

(b) return the site, or that part of the site, to a satisfactory state,

the revocation notice shall specify that this is the case and, in so far as those steps are not already required to be taken by the conditions of the permit, the steps to be taken.

(6) Subject to paragraph (7) and regulation 27(6), a permit shall cease to have effect, or, in the case of a partial revocation, shall cease to have effect to the extent specified in the revocation notice, from the date specified in the notice.

(7) Where paragraph (5) applies the permit shall cease to have effect to authorise the operation of the Part A installation or Part A mobile plant from the date specified in the revocation notice but shall continue to have effect in so far as the permit requires steps to be taken once it is no longer in operation until the regulator issues a certificate stating that it is satisfied that all such steps have been taken.

(8) Where a permit continues to have effect as mentioned in paragraph (7), any steps specified in a revocation notice pursuant to paragraph (5) shall be treated as if they were required to be taken by a condition of the permit and regulations 17, 23, 24, and 32(1)(b) shall apply in relation to the requirement to take such steps, and to any other conditions in the permit which require steps to be taken once the installation is no longer in operation, until the regulator issues a certificate as mentioned in paragraph (7).

(9) A regulator which has served a revocation notice may, before the date on which the revocation takes effect, withdraw the notice.

(10) Regulation 19(11) shall apply for the purpose of deciding whether a pollution risk results from the operation of a Part A installation or Part A mobile plant for the purpose of this regulation as it applies for the purpose of regulation 19.

### **Fees and charges in relation to local authority permits**

**22.**—(1) There shall be charged by and paid to regulators such fees and charges as may be prescribed from time to time by a scheme under paragraph (2) (whether by being specified in or made calculable under the scheme).

(2) The Secretary of State may make and from time to time revise a scheme prescribing—

- (a) fees payable in respect of applications for the grant of local authority permits;
- (b) fees payable in respect of, or of applications for, the variation, transfer and surrender of such permits; and
- (c) charges payable in respect of the subsistence of such permits.

(3) The Secretary of State shall, on making or revising a scheme under paragraph (2), lay a copy of the scheme or of the revisions made to the scheme or, if he considers it more appropriate, the scheme as revised, before each House of Parliament.

(4) A scheme under paragraph (2) may, in particular—

- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
- (b) allow for reduced fees or charges to be payable in respect of permits granted to the same person;
- (c) provide for the times at which and the manner in which the payments required by the scheme are to be made (subject to the requirements in these Regulations as to the times at which payment is required); and
- (d) make such incidental, supplementary and transitional provisions as appears to the Secretary of State to be appropriate.

(5) The Secretary of State, in framing a scheme under paragraph (2), shall, so far as practicable, secure that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover the expenditure incurred by—

- (a) local authority regulators in exercising their functions under these Regulations in relation to local authority permits;
- (b) the Environment Agency in exercising its functions under regulation 13(1) or in preparing guidance in relation to the authorisation of installations and plants covered by local authority permits.

(6) A scheme under paragraph (2) shall provide that to the extent that sums paid to a local authority regulator under the scheme relate to the expenditure incurred by the Environment Agency mentioned in paragraph (5)(b) those sums shall be paid by the local authority regulator to the Environment Agency.

(7) If it appears to the local authority regulator that an operator has failed to pay a charge due in respect of the subsistence of a permit, it may revoke the permit under regulation 21.

(8) In this regulation, “local authority permit” means a permit applying to installations or mobile plant in relation to which a local authority exercises functions under these Regulations.

## PART III

### ENFORCEMENT

#### **Duty of regulator to ensure compliance with conditions**

**23.** While a permit is in force it shall be the duty of the regulator to take such action under these Regulations as may be necessary for the purpose of ensuring that the conditions of the permit are complied with.

#### **Enforcement notices**

**24.**—(1) If the regulator is of the opinion that an operator has contravened, is contravening or is likely to contravene any condition of his permit, the regulator may serve on him a notice (an “enforcement notice”).

(2) An enforcement notice shall—

- (a) state that the regulator is of that opinion;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

(3) The steps that may be specified in an enforcement notice as steps that must be taken to remedy the contravention of any condition of a permit may include both steps that must be taken to make the operation of the installation or mobile plant comply with the conditions of the permit and steps that must be taken to remedy the effects of any pollution caused by the contravention.

(4) The regulator may withdraw an enforcement notice at any time.

#### **Suspension notices**

**25.**—(1) If the regulator is of the opinion, as respects an installation or mobile plant authorised under these regulations, that the operation of the installation or mobile plant, or the operation of it in a particular manner, involves an imminent risk of serious pollution, it shall, unless it intends to arrange for steps to be taken under regulation 26(1) in relation to the risk, serve a notice under this regulation (a “suspension notice”) on the operator of the installation or mobile plant.

(2) Paragraph (1) applies whether or not the particular manner of operating the installation or mobile plant in question is regulated by or contravenes a condition of the permit.

(3) If the regulator is of the opinion, as respects the carrying out of specified waste management activities under a permit, that the operator carrying out the activities has ceased to be a fit and proper person in relation to those activities by reason of their management having ceased to be in the hands of a technically competent person, it may serve a suspension notice on that operator.

(4) A suspension notice shall—

- (a) state the regulator’s opinion, as mentioned in paragraph (1) or (3), as the case may be;
- (b) in the case of a notice served under paragraph (1), specify—
  - (i) the imminent risk involved in the operation of the installation or mobile plant;
  - (ii) the steps that must be taken to remove it and the period within which they must be taken;

- (c) state that the permit shall, until the notice is withdrawn, cease to have effect to authorise the operation of the installation or mobile plant or the carrying out of specified activities in the installation or by means of the mobile plant; and
  - (d) where the permit is to continue to have effect to authorise the carrying out of activities, state any steps, in addition to those already required to be taken by the conditions of the permit, that are to be taken in carrying out those activities.
- (5) Where a suspension notice is served under this regulation the permit shall, on the service of the notice, cease to have effect as stated in the notice.
- (6) The regulator may withdraw a suspension notice at any time and shall withdraw a notice when it is satisfied—
- (a) in the case of a notice served under paragraph (1), that the steps required by the notice to remove the imminent risk of serious pollution have been taken;
  - (b) in the case of a notice served under paragraph (3), that the management of the specified waste management activities is in the hands of a technically competent person.

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

**26.**—(1) If the regulator is of the opinion, as respects the operation of an installation or mobile plant authorised under these regulations, that the operation of the installation or mobile plant, or the operation of it in a particular manner, involves an imminent risk of serious pollution, the regulator may arrange for steps to be taken to remove that risk.

(2) Where the commission of an offence under regulation 32(1)(a), (b) or (d) causes any pollution the regulator may arrange for steps to be taken towards remedying the effects of the pollution.

(3) A regulator which intends to arrange for steps to be taken under paragraph (2) shall, at least seven days before the steps are taken, notify the operator of the steps that are to be taken.

(4) Subject to paragraph (5), where a regulator arranges for steps to be taken under this regulation it may recover the cost of taking those steps from the operator concerned.

(5) No costs shall be recoverable under paragraph (4) where the regulator arranges for steps to be taken under paragraph (1) if the operator shows that there was no imminent risk of serious pollution requiring any such steps to be taken and no other costs shall be recoverable which the operator shows to have been unnecessarily incurred by the regulator.

## **PART IV**

### **APPEALS**

#### **Appeals to the Secretary of State**

- 27.**—(1) Subject to paragraph (3), the following persons, namely—
- (a) a person who has been refused the grant of a permit under regulation 10;
  - (b) a person who has been refused the variation of the conditions of a permit on an application under regulation 17(2);
  - (c) a person who is aggrieved by the conditions attached to his permit following an application under regulation 10 or by a variation notice following an application under regulation 17(2);
  - (d) a person whose application under regulation 18(1) for a regulator to effect the transfer of a permit has been refused or who is aggrieved by the conditions attached to his permit to take account of such a transfer;

- (e) a person whose application under regulation 19(2) to surrender a permit has been refused, or who is aggrieved by the conditions attached to his permit to take account of the surrender,

may appeal against the decision of the regulator to the Secretary of State.

(2) Subject to paragraph (3), a person on whom a variation notice is served, other than following an application under regulation 17(2), or on whom a revocation notice, an enforcement notice or a suspension notice is served may appeal against the notice to the Secretary of State.

(3) Paragraphs (1) and (2) shall not apply where the decision or notice, as the case may be, implements a direction of the Secretary of State given under regulations 12(15) or 36 or paragraph (4) of this regulation or paragraph 14(6) of Schedule 4 or 6(6) of Schedule 7.

(4) On determining an appeal against a decision of a regulator under paragraph (1) the Secretary of State may—

- (a) affirm the decision;
- (b) where the decision was a refusal to grant a permit or to vary the conditions of a permit, direct the regulator to grant the permit or to vary the conditions of the permit, as the case may be;
- (c) where the decision was as to the conditions attached to a permit, quash all or any of the conditions of the permit;
- (d) where the decision was a refusal to effect the transfer or accept the surrender of a permit, direct the regulator to effect the transfer or accept the surrender, as the case may be,

and where he exercises any of the powers in paragraph (b) or (c) he may give directions as to the conditions to be attached to the permit.

(5) On the determination of an appeal under paragraph (2) the Secretary of State may either quash or affirm the notice and, if he affirms it, may do so either in its original form or with such modifications as he may in the circumstances think fit.

(6) Where an appeal is brought under paragraph (2) against a revocation notice, the revocation shall not take effect pending the final determination or the withdrawal of the appeal.

(7) Where an appeal is brought under paragraph (1)(c), (d) or (e) in relation to the conditions attached to a permit, the bringing of the appeal shall not have the effect of suspending the operation of the conditions.

(8) Where an appeal is brought under paragraph (2) against a variation notice, an enforcement notice or a suspension notice, the bringing of the appeal shall not have the effect of suspending the operation of the notice.

(9) Regulations 11 and 12 shall apply where the Secretary of State, in exercising any of the powers in sub-paragraph (b) or (c) of paragraph (4), gives directions as to the conditions to be attached to a permit as they would apply to the regulator when determining the conditions of the permit.

(10) Schedule 8 shall have effect in relation to the making and determination of appeals under this regulation.

(11) This regulation and Schedule 8 are subject to section 114 of the Environment Act 1995 (delegation of reference of appeals).

## PART V

### INFORMATION AND PUBLICITY

#### Information

**28.**—(1) For the purpose of the discharge of his functions under these Regulations, the Secretary of State may, by notice served on a regulator, require the regulator to furnish such information about the discharge of its functions as a regulator as he may require.

(2) For the purposes of the discharge of their functions under these Regulations, the Secretary of State or a regulator may, by notice served on any person, require that person to furnish such information as is specified in the notice, in such form and within such period following service of the notice or at such time as is so specified.

(3) For the purposes of this regulation, the discharge by the Secretary of State of an obligation of the United Kingdom under the Community Treaties or any international agreement relating to the environment shall be treated as a function of his under these Regulations and the compilation of an inventory of emissions (whether or not from installations or mobile plant) shall be treated as a function of the Environment Agency under these Regulations.

(4) The information which a person may be required to furnish by a notice served under paragraph (2) includes information on emissions which, although it is not in the possession of that person or would not otherwise come into the possession of that person, is information which it is reasonable to require that person to compile for the purpose of complying with the notice.

#### Public registers of information

**29.**—(1) Subject to regulations 30 and 31 and to paragraphs 2 to 5 of Schedule 9, it shall be the duty of each regulator, as respects installations or mobile plant for which it is the regulator, to maintain a register containing the particulars described in paragraph 1 of that Schedule.

(2) Subject to paragraph (3), the register maintained by a local authority regulator shall also contain any particulars contained in any register maintained by the Environment Agency relating to the operation of an installation or Part A mobile plant in the area of the local authority regulator in relation to which the Environment Agency has functions under these Regulations.

(3) Paragraph (2) does not apply to port health authorities but each local authority regulator whose area adjoins that of a port health authority shall include in its register the information that it would have had to include under paragraph (2) in relation to the operation of installations and Part A mobile plant in the area of the port health authority if the port health authority had not been constituted.

(4) The Environment Agency shall furnish each local authority regulator with the particulars which are necessary to enable it to discharge its duty under paragraphs (2) and (3).

(5) Where information of any description is excluded from any register by virtue of regulation 31, a statement shall be entered in the register indicating the existence of information of that description.

(6) It shall be the duty of each regulator—

- (a) to secure that the registers maintained by them under this regulation are available, at all reasonable times, for inspection by the public free of charge; and
- (b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

(7) Registers under this regulation may be kept in any form.

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

**30.**—(1) No information shall be included in a register maintained under regulation 29 if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.

(2) The Secretary of State may, for the purpose of securing the exclusion from registers of information to which paragraph (1) applies, give to regulators directions—

- (a) specifying information, or descriptions of information, to be excluded from their registers; or
- (b) specifying descriptions of information to be referred to the Secretary of State for his determination,

and no information referred to the Secretary of State in pursuance of sub-paragraph (b) shall be included in any such register until the Secretary of State determines that it should be so included.

(3) The regulator shall notify the Secretary of State of any information it excludes from the register in pursuance of directions under paragraph (2).

(4) A person may, as respects any information which appears to him to be information to which paragraph (1) may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

- (a) he shall notify the regulator that he has done so; and
- (b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.

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

**31.**—(1) No information relating to the affairs of any individual or business shall be included in a register maintained under regulation 29, without the consent of that individual or the person for the time being carrying on that business, if and so long as the information—

- (a) is, in relation to him, commercially confidential; and
- (b) is not required to be included in the register in pursuance of a direction under paragraph (9),

but information is not commercially confidential for the purposes of this regulation unless it is determined under this regulation to be so by the regulator or, on appeal, by the Secretary of State.

(2) Where information is furnished to a regulator for the purpose of these Regulations the person furnishing it may apply to the regulator to have the information excluded from the register on the ground that it is commercially confidential (as regards himself or another person) and the regulator shall determine whether the information is or is not commercially confidential.

(3) Notice of determination under paragraph (2) shall be given to the applicant within the period of 28 days beginning with the date of the application or within such longer period as may be agreed with the applicant.

(4) If the regulator fails to give notice of its determination of an application under paragraph (2) within the period allowed by or under paragraph (3), the regulator shall, if the applicant notifies the regulator in writing that he treats the failure as such, be deemed to have determined at the end of that period that the information is not commercially confidential.

(5) Where it appears to a regulator that any information which has been obtained by the regulator under or by virtue of any provision of these Regulations and is required to be included in the register unless excluded under this regulation might be commercially confidential, the regulator shall (unless the information is the subject of an application under paragraph (2))—

- (a) give to the person to whom or whose business it relates notice that that information is required to be included in the register unless excluded under this regulation; and

- (b) give that person a reasonable opportunity—
  - (i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and
  - (ii) of making representations to the regulator for the purpose of justifying any such objection,

and, if any representations are made, the regulator shall, having taken the representations into account, give that person notice of its determination as to whether the information is or is not commercially confidential.

(6) Where, under paragraph (2) or (5), a regulator determines that information is not commercially confidential—

- (a) the information shall not be entered in the register until the end of the period of 21 days beginning with the date on which the determination is notified to the person concerned or the determination is deemed to have been made under paragraph (4), as the case may be;
- (b) that person may, before the end of that period, appeal to the Secretary of State against the decision,

and, where an appeal is brought in respect of any information, the information shall not be entered in the register until the end of the period of seven days following the day on which the appeal is finally determined or is withdrawn.

(7) A person who wishes to appeal to the Secretary of State under paragraph (6) shall give to the Secretary of State written notice of the appeal together with a statement of the grounds of appeal and a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of by way of written representations and shall, at the same time, send to the regulator a copy of that notice together with those statements.

(8) Before giving notice of his determination of an appeal under paragraph (6), the Secretary of State may afford the appellant and the regulator an opportunity of appearing before and being heard by a person appointed by him and he shall do so in any case where a request is duly made by the appellant or the regulator to be so heard.

(9) The Secretary of State may give to the regulator directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under regulation 29 notwithstanding that the information may be commercially confidential.

(10) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this regulation at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded or at the expiry of such shorter period as may be specified in the notice of that determination for the purpose of this paragraph; but the person who furnished it may apply to the regulator for the information to remain excluded from the register on the ground that it is still commercially confidential and the regulator shall determine whether or not that is the case.

(11) Paragraphs (6) to (8) shall apply in relation to a determination under paragraph (10) as they apply in relation to a determination under paragraph (2) or (5).

(12) Information is, for the purposes of any determination under this regulation, commercially confidential, in relation to any individual or other person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or other person.

(13) Paragraph (6) is subject to section 114 of the Environment Act 1995.

## PART VI

### PROVISION AS TO OFFENCES

#### Offences

- 32.**—(1) It is an offence for a person—
- (a) to contravene regulation 9(1);
  - (b) to fail to comply with or to contravene a condition of a permit;
  - (c) to fail to comply with regulation 16(1);
  - (d) to fail to comply with the requirements of an enforcement notice or a suspension notice;
  - (e) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under regulation 28(2);
  - (f) to make a statement which he 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 furnish any information imposed by or under any provision of these Regulations; or
    - (ii) for the purpose of obtaining the grant of a permit to himself or any other person, or the variation, transfer or surrender of a permit;
  - (g) intentionally to make a false entry in any record required to be kept under the condition of a permit;
  - (h) with intent to deceive, to forge or use a document issued or authorised to be issued under a condition of a permit or required for any purpose under a condition of a permit or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;
  - (i) to fail to comply with an order made by a court under regulation 35.
- (2) A person guilty of an offence under sub-paragraph (a), (b), (d) or (i) of paragraph (1) shall be liable—
- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months or to both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both.
- (3) A person guilty of an offence under sub-paragraph (c), (e) and (f) to (h) of paragraph (1) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (4) Where an offence under this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (5) Where the affairs of a body corporate are managed by its members, paragraph (4) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(6) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

### **Enforcement by High Court**

**33.** If the regulator is of the opinion that proceedings for an offence under regulation 32(1)(d) would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice or a suspension notice, the regulator may take proceedings in the High Court for the purpose of securing compliance with the notice.

### **Admissibility of evidence**

**34.** Where —

- (a) by virtue of a condition of a permit granted by a local authority regulator an entry is required to be made in any record as to the observance of any condition of the permit; and
- (b) the entry has not been made,

that fact shall be admissible as evidence that that condition has not been observed.

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

**35.—**(1) Where a person is convicted of an offence under regulation 32(1)(a), (b) or (d) in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying those matters.

(2) The time fixed by an order under paragraph (1) may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or extended under this paragraph, as the case may be.

(3) Where a person is ordered under paragraph (1) to remedy any matters, that person shall not be liable under regulation 32 in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (2).

## **PART VII**

### **SECRETARY OF STATE'S POWERS**

#### **Directions to regulators**

**36.—**(1) The Secretary of State may give directions to regulators of a general or specific character with respect to the carrying out of any of their functions under these Regulations.

(2) Without prejudice to the generality of the power conferred by paragraph (1), a direction under that paragraph may direct regulators—

- (a) to exercise any of their powers under these Regulations or to do so in such circumstances as may be specified in the directions or in such manner as may be so specified; or
- (b) not to exercise those powers, or not to do so in such circumstances or such manner as may be specified in the directions.

(3) Where the Secretary of State receives information pursuant to Article 17(1) of the Directive in relation to the operation of an installation outside of the United Kingdom which is likely to have

a significant negative effect on the environment of England or Wales, he shall, for the purpose of complying with Article 17(2) of the Directive, direct the Environment Agency to take such steps as he considers appropriate for the purpose of bringing the information to the attention of the persons in England or Wales likely to be affected by the operation of the installation and providing them with an opportunity to comment on that information.

(4) Any direction given under these Regulations shall be in writing and may be varied or revoked by a further direction.

(5) It shall be a duty of a regulator to comply with any direction which is given to it under these Regulations.

### **Guidance to regulators**

**37.**—(1) The Secretary of State may issue guidance to regulators with respect to the carrying out of any of their functions under these Regulations.

(2) A regulator, in carrying out any of its functions under these Regulations, shall have regard to any guidance issued by the Secretary of State under this regulation.

### **Plans relating to emissions**

**38.**—(1) The Secretary of State 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 within England and Wales; or
- (b) the allocation of quotas relating to such emissions.

(2) Where the Secretary of State allocates a quota in a plan made under paragraph (1) he may also make a scheme for the trading or other transfer of the quota so allocated.

(3) In this regulation, “emission” means the direct or indirect release of any substance from individual or diffuse sources into the air, water or land.

## **PART VIII**

### **CONSEQUENTIAL AMENDMENTS**

#### **Consequential amendments**

**39.** The enactments and other instruments mentioned in Schedule 10 shall have effect with the amendments there specified (being amendments consequential on provisions of these Regulations).

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

*Michael Meacher*  
Minister of State,  
Department of the Environment, Transport and  
the Regions

21st July 2000

SCHEDULE 1

Regulation 2

ACTIVITIES, INSTALLATIONS AND MOBILE PLANT

PART 1:

ACTIVITIES

Chapter 1—Energy Industries

*Section 1.1—Combustion Activities*

**Part A(1)**

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

**Interpretation of Part A(1)**

1. For the purpose of paragraph (a), where two 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 shall be treated as a single appliance with a rated thermal input of 50 megawatts or more.

2. Nothing in this Part 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.

**Part A(2)**

Nil.

**Part B**

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

- (a) Burning any fuel, other than a fuel mentioned in paragraph (b) of Part A(1) of this Section, in a boiler or furnace or a gas turbine or compression ignition engine with, in the case of any of these appliances, a rated thermal input of 20 megawatts or more but less than 50 megawatts.
- (b) Burning any of the following fuels in an appliance with a rated thermal input of less than 3 megawatts—
  - (i) waste oil;
  - (ii) recovered oil;
  - (iii) a solid fuel which has been manufactured from waste by an activity involving the application of heat.
- (c) Burning fuel manufactured from or including waste, other than a fuel mentioned in paragraph (b), in any appliance—
  - (i) with a rated thermal input of less than 3 megawatts but at least 0.4 megawatts; or
  - (ii) which is used together with other appliances which each have a rated thermal input of less than 3 megawatts, where the aggregate rated thermal input of all the appliances is at least 0.4 megawatts.

### **Interpretation of Part B**

1. Nothing in this Part applies to any activity falling within Part A(1) or A(2) of Section 5.1.
2. In paragraph (c), “fuel” does not include gas produced by biological degradation of waste.

### **Interpretation of Section 1.1**

For the purpose of this Section—

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

“recovered oil” means waste oil which has been processed before being used.

### *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 tonnes or more of gas in any period of 12 months.
- (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 thereof, other than from sewage, unless the production is carried out 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 or other handling of, the 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;
  - (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 paragraphs (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 coal (other than the drying of coal), lignite, oil, other carbonaceous material or mixtures thereof otherwise than with a view to making charcoal.

### **Interpretation of Part A(1)**

1. Paragraph (j) does not include the use of any substance as a fuel or its incineration as a waste or any activity for the treatment of sewage.

2. In paragraph (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 this Part, “carbonaceous material” includes such materials as charcoal, coke, peat, rubber and wood.

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

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

### **Part B**

- (a) Odourising natural gas or liquefied petroleum gas, except where that activity is related to a Part A activity.
- (b) Blending odorant for use with natural gas or liquefied petroleum gas.
- (c) 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.
- (d) 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 period of 12 months is likely to be 100m<sup>3</sup> or more.

### **Interpretation of Part B**

1. In this Part—

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

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

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

“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 this Part 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>(17)</sup> have the same meaning as in that Directive.

## Chapter 2—Production and Processing of Metals

### Section 2.1—Ferrous Metals

#### 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, reverberatory, rotary, induction 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 period of 12 months of iron ore, except in the course of mining operations, or burnt pyrites.

#### Part A(2)

- (a) Producing pig iron or steel, including continuous casting, in a plant with a production capacity of more than 2.5 tonnes per hour unless falling within paragraph (b) of Part A(1) of this Section.
- (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) Producing pig iron or steel, including continuous casting, in a plant with a production capacity of 2.5 tonnes or less per hour, unless falling within paragraph (b) of Part A(1) of this Section.
- (b) Producing, melting or refining iron or steel or any ferrous alloy (other than producing pig iron or steel, including continuous casting) using—
  - (i) one or more electric arc furnaces, none of which has a designed holding capacity of 7 tonnes or more; or
  - (ii) a cupola, crucible, reverberatory, rotary, induction or resistance furnace,unless falling within paragraph (a) or (d) of Part A(2) of this Section.
- (c) Desulphurising iron, steel or any ferrous alloy.

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<sup>(17)</sup> OJ No. L 365, 31.12.94, p. 24.

- (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 out 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) Casting iron, steel or any ferrous alloy from deliveries of 50 tonnes or more of molten metal, unless falling within Part A(1) or Part A(2) of this Section.

### **Interpretation of Section 2.1**

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.

### *Section 2.2—Non-Ferrous Metals*

#### **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 (refining, foundry casting etc.) 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, bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 tonnes or more.
- (c) Refining any non-ferrous metal or alloy, other than the electrolytic refining of copper, except where the activity is related to an activity described in paragraph (a) of Part A(2), or paragraph (a), (d), or (e) of Part B, of this Section.
- (d) Producing, melting or recovering by chemicals 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 of the following elements if the activity may result in their release into the air: gallium; indium; palladium; tellurium; thallium.
- (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, in aggregate, of both.
- (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 of the substances listed in paragraph 12 of Part 2 to 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 paragraph (a) or (d) of Part B 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)**

In paragraph (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, without prejudice to the generality of the foregoing, includes such concentration of those substances as is present in—

- (i) water supplied to the site where the activity is carried out;
- (ii) water abstracted for use in the activity; and
- (iii) precipitation onto the site on which the activity is carried out.

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

- (a) Melting, including making alloys, of non-ferrous metals, including recovered products (refining, foundry casting, etc.) 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) no furnace, bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 tonnes or more.

### **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 (refining, foundry casting, etc.) 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 tonnes or less 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 tonnes or less per day.
- (e) Unless falling within Part A(1) or A(2) of this Section, the separation of copper, aluminium, magnesium or zinc from mixed scrap by differential melting.

### **Interpretation of Part B**

In this Part “net rated thermal input” is 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.

### **Interpretation 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. Nothing in paragraphs (c) to (h) of Part A(1) or in Part B of this Section shall be taken to refer to the activities of hand soldering, flow soldering or wave soldering.

### *Section 2.3—Surface Treating Metals and Plastic Materials*

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

(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>.

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

Nil.

#### **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) of this Section.

### **Chapter 3—Mineral Industries**

#### *Section 3.1—Production of Cement and Lime*

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

(a) Producing or 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) where the activity is likely to involve the heating in any period of 12 months of 5,000 tonnes or more of calcium carbonate or calcium magnesium carbonate or, in aggregate, of both.

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

Nil.

#### **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 period of 12 months of 5,000 tonnes or more of calcium carbonate or calcium magnesium carbonate or, in aggregate, of both.

### *Section 3.2—Activities Involving Asbestos*

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

Nil.

#### **Part B**

- (a) The industrial finishing of any of the following products where not related to an activity falling within Part A(1) of this Section—
  - asbestos cement;
  - asbestos cement products;
  - asbestos fillers;
  - asbestos filters;
  - asbestos floor coverings;
  - asbestos friction products;
  - asbestos insulating board;
  - asbestos jointing, packaging and reinforcement material;
  - asbestos packing;
  - asbestos paper or card;
  - asbestos textiles.

### **Interpretation of Section 3.2**

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

### *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 period of 12 months is likely to be 100 tonnes or more.

#### **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 A(2) of this Section—

- (a) Manufacturing glass at any location where the person concerned has the capacity to make 5,000 tonnes or more of glass in any period of 12 months, and any activity involving the use of glass which is carried out 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 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.

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

Nil.

#### **Part B**

Nil.

### Section 3.5—Other Mineral Activities

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

Nil.

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

Nil.

#### **Part B**

- (a) Unless falling within Part A(1) or Part A(2) of any Section in this Schedule, 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 of Part B**

**1.** In this Part—

“coal” includes lignite;

“designated mineral or mineral product” means—

- (i) clay, sand and any other naturally occurring mineral other than coal or lignite;
- (ii) metallurgical slag;
- (iii) boiler or furnace ash produced from the burning of coal, coke or any other coal product;
- (iv) gypsum which is a by-product of any activity;

“exempt location” means—

- (i) 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 period of 12 months is in aggregate likely to be less than 10,000 tonnes; or
- (ii) 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.** Nothing in this Part applies to any activity carried out 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—
- the kiln production capacity is more than 75 tonnes per day; or
  - the kiln capacity is more than  $4\text{m}^3$  and the setting density is more than  $300\text{ kg/m}^3$ , 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—
- the kiln production capacity is more than 75 tonnes per day; or
  - the kiln capacity is more than  $4\text{m}^3$  and the setting density is more than  $300\text{ kg/m}^3$ .

#### 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

In this Part—

“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

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

#### Part A(1)

- (a) Producing organic chemicals such as—
- hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);
  - organic compounds containing oxygen, such as alcohols, aldehydes, ketones, carboxylic acids, esters, ethers, peroxides, phenols, epoxy resins;
  - organic compounds containing sulphur, such as sulphides, mercaptans, sulphonic acids, sulphonates, sulphates and sulphones and sulphur heterocyclics;

- (iv) organic compounds containing nitrogen, such as amines, amides, nitrous-, nitro- or azo-compounds, nitrates, nitriles, nitrogen heterocyclics, cyanates, isocyanates, di-isocyanates and di-isocyanate prepolymers;
  - (v) organic compounds containing phosphorus, such as substituted phosphines and phosphate esters;
  - (vi) organic compounds containing halogens, such as halocarbons, halogenated aromatic compounds and acid halides;
  - (vii) organometallic compounds, such as lead alkyls, Grignard reagents and lithium alkyls;
  - (viii) plastic materials, such as 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 period of 12 months, the polymerisation or co-polymerisation of 50 tonnes or more of any of those materials or, in aggregate, of any combination of those materials.
  - (d) Any activity involving the use in any period of 12 months of one tonne or more 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 one tonne or more 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 A(2)**

Nil.

## **Part B**

- (a) Unless falling within Part A(1) of this Section, any activity involving in any period of 12 months—
  - (i) the use of less than 1 tonne of toluene di-isocyanate or other di-isocyanate of comparable volatility or, where partially polymerised, the use of partly polymerised di-isocyanates or prepolymers containing less than 1 tonne of those monomers; or
  - (ii) the use of 5 tonnes or more of diphenyl methane di-isocyanate or other di-isocyanate of much lower volatility than toluene di-isocyanate or, where partly polymerised, the use of partly polymerised di-isocyanates or prepolymers containing 5 tonnes or more of these less volatile monomers,where the activity may result in a release into the air which contains such a di-isocyanate monomer.

- (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 period of 12 months, the polymerisation or co-polymerisation of 100 tonnes or more of unsaturated hydrocarbon.

### **Interpretation of Section 4.1**

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.

### *Section 4.2—Inorganic Chemicals*

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

- (a) Producing inorganic chemicals such as—
  - (i) gases, such as ammonia, hydrogen chloride, hydrogen fluoride, hydrogen cyanide, hydrogen sulphide, oxides of carbon, sulphur compounds, oxides of nitrogen, hydrogen, oxides of sulphur, phosgene;
  - (ii) acids, such as chromic acid, hydrofluoric acid, hydrochloric acid, hydrobromic acid, hydroiodic acid, phosphoric acid, nitric acid, sulphuric acid, oleum and chlorosulphonic acid;
  - (iii) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;
  - (iv) salts, such as 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 such as calcium carbide, silicon, silicon carbide, titanium dioxide;
  - (vi) halogens or interhalogen compound comprising two or more of halogens, or any compound comprising one or more of those halogens and oxygen.
- (b) Unless falling within another Section of this Schedule, any manufacturing activity which uses, or which is likely to result in the release into the air or into water of, any halogens, hydrogen halides or any of the compounds mentioned in paragraph (a)(vi), other than the treatment of water by chlorine.
- (c) Unless falling within another Section of this Schedule, any manufacturing activity involving the use of hydrogen cyanide or hydrogen sulphide.
- (d) Unless falling within another Section of this Schedule, any manufacturing activity, other than the application of a glaze or vitreous enamel, involving the use of any of the following elements or compound of those elements or the recovery of any compound of the following elements—
  - antimony;
  - arsenic;
  - beryllium;
  - gallium;
  - indium;
  - lead;
  - palladium;
  - platinum;

selenium;  
tellurium;  
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 13 of Part 2 of this Schedule.

- (e) Recovering any compound of cadmium or mercury.
- (f) Unless falling within another Section of this Schedule, 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 out as part of any other activity falling within this Schedule—
  - (i) recovering, concentrating or distilling sulphuric acid or oleum;
  - (ii) recovering nitric acid;
  - (iii) purifying phosphoric acid.
- (h) Any manufacturing activity (other than the manufacture of chemicals or glass or the coating, plating or surface treatment of metal) which—
  - (i) involves the use of hydrogen fluoride, hydrogen chloride, hydrogen bromide or hydrogen iodide or any of their acids; and
  - (ii) may result in the release of any of those compounds into the air.
- (i) Unless carried out as part of any other activity falling within this Schedule, recovering ammonia.
- (j) Extracting any magnesium compound from sea water.

**Part A(2)**

Nil.

**Part B**

Nil.

*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.

**Part A(2)**

Nil.

**Part B**

Nil.

*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 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph for that substance.

**Part A(2)**

Nil.

**Part B**

Nil.

*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 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph for that substance.

**Part A(2)**

Nil.

**Part B**

Nil.

*Section 4.6—Explosives Production*

**Part A(1)**

- (a) Producing explosives.

**Part A(2)**

Nil.

**Part B**

Nil.

*Section 4.7—Manufacturing Activities Involving Carbon Disulphide or Ammonia*

**Part A(1)**

- (a) 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 involves the use of ammonia or may result in the release of ammonia into the air other than an activity in which ammonia is only used as a refrigerant.

**Part A(2)**

Nil.

**Part B**

Nil.

*Section 4.8—The Storage of Chemicals in Bulk*

**Part A(1)**

Nil.

**Part A(2)**

Nil.

**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—

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any one or more acrylates	20 tonnes (in aggregate)
acrylonitrile	20 tonnes
anhydrous ammonia	100 tonnes
anhydrous hydrogen fluoride	1 tonne
toluene di-isocyanate	20 tonnes
vinyl chloride monomer	20 tonnes
ethylene	8,000 tonnes.

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Chapter 5—Waste Management

*Section 5.1—Disposal of Waste by Incineration*

**Part A(1)**

- (a) The incineration of any waste chemical or waste plastic arising from the manufacture of a chemical or the manufacture of a plastic.

- (b) The incineration, other than incidentally in the course of burning other waste, of any waste chemical being, or comprising in elemental or compound form, any of the following—
- bromine;
  - cadmium;
  - chlorine;
  - fluorine;
  - iodine;
  - lead;
  - mercury;
  - nitrogen;
  - phosphorus;
  - sulphur;
  - zinc.
- (c) Unless falling within Part B of this Section, the incineration of (any other) hazardous waste in an incineration plant other than of specified hazardous waste in an exempt incineration plant.
- (d) The incineration of municipal waste in an incineration plant with a capacity of more than 3 tonnes per hour.
- (e) The incineration of any waste, including animal remains, otherwise than as part of a Part B activity, in an incineration plant with a capacity of 1 tonne or more per hour.
- (f) The cleaning for reuse of metal containers used for the transport or storage of a chemical by burning out their residual content.

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

Nil.

#### **Part B**

- (a) The incineration of specified hazardous waste in an incineration plant with a capacity of 10 tonnes or less per day and less than 1 tonne per hour, unless the plant is an exempt incineration plant.
- (b) The incineration of any non hazardous waste in an incineration plant, other than an exempt incineration plant, with a capacity of less than 1 tonne per hour.
- (c) The cremation of human remains.

#### **Interpretation of Section 5.1**

In this Section—

“clinical waste”, in the definition of “exempt incineration plant”, means waste (other than waste consisting wholly of animal remains) which falls within sub-paragraph (a) or (b) of the definition of such waste in paragraph (2) of regulation 1 of the Controlled Waste Regulations 1992<sup>(18)</sup> (or would fall within one of those sub-paragraphs but for paragraph (4) of that regulation);

“exempt incineration plant” means any incineration plant on premises where there is plant designed to incinerate waste, including animal remains, at a rate of 50 kilogrammes or less

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(18) S.I. 1992/588.

per hour, not being an incineration plant employed to incinerate clinical waste, sewage sludge, sewage screenings or municipal waste; and the for purposes of this definition, the weight of waste shall be determined by reference to its weight as fed into the incineration plant;

“hazardous waste” means waste as defined in Article 1(4) of Council Directive [91/689/EEC](#) on hazardous waste<sup>(19)</sup>;

“incineration” includes pyrolysis;

“incineration of hazardous waste in an incineration plant” means the incineration by oxidation of hazardous wastes, with or without recovery of the combustion heat generated, including pre-treatment and thermal treatment processes, for example, plasma process, in so far as their products are subsequently incinerated, and includes the incineration of such wastes as regular or additional fuel for any industrial process;

“municipal waste” means municipal waste as defined in Council Directives [89/369/EEC](#)<sup>(20)</sup> and [89/429/EEC](#)<sup>(21)</sup>;

“specified hazardous waste” means—

- (a) combustible liquid wastes, including waste oils as defined in Article 1 of Council Directive [75/439/EEC](#) on the disposal of waste oil<sup>(22)</sup>, provided that they meet the following three 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<sup>(23)</sup>;
  - (ii) these wastes are not rendered hazardous by virtue of containing other constituents listed in Annex II to Council Directive [91/689/EEC](#) on hazardous waste in quantities or in concentrations which are inconsistent with the achievement of the objectives set out in Article 4 of Council Directive [75/442/EEC](#) on waste<sup>(24)</sup>; and
  - (iii) the net calorific value amounts to 30 MJ or more per kilogramme;
- (b) combustible liquid wastes which cannot cause, in the flue gas directly resulting from their combustion, emissions other than those from gas oil, as defined in Article 1(1) of Council Directive [75/716/EEC](#) on the approximation of the laws of Member States relating to the sulphur content of certain liquid fuels<sup>(25)</sup> or a higher concentration of emissions than those resulting from the combustion of gas oil as so defined;
- (c) sewage sludges from the treatment of municipal waste waters which are not rendered hazardous by virtue of containing constituents listed in Annex II to Council Directive [91/689/EEC](#) on hazardous waste in quantities or in concentrations which are inconsistent with the achievement of the objectives set out in Article 4 of Council Directive [75/442/EEC](#) on waste; and
- (d) infectious clinical waste, provided that such waste is not rendered hazardous as a result of the presence of constituents listed in Annex II to Council Directive [91/689/EEC](#) on hazardous waste other than constituent C35 in that list (infectious substances).

<sup>(19)</sup> OJ No. L 377, 31.12.91, p. 20.

<sup>(20)</sup> OJ No. L 163, 14.6.89, p. 32.

<sup>(21)</sup> OJ No. L 203, 15.7.89, p. 50.

<sup>(22)</sup> OJ No. L 194, 25.7.75, p. 23.

<sup>(23)</sup> See, in particular Council Directive [96/59/EC](#) (OJ No. L 243, 24.9.96, p. 31).

<sup>(24)</sup> OJ No. L 194, 25.7.75, p. 39; amended by Council Directives [91/156/EEC](#) (OJ No. L 78, 26.3.91, p. 32) and [91/692/EEC](#) (OJ No. L 377, 31.12.91, p. 48) and Commission Decision [96/350/EC](#) (OJ No. L 135, 6.6.96, p. 32).

<sup>(25)</sup> OJ No. L 307, 27.11.75, p. 22.

### *Section 5.2—Disposal of Waste by Landfill*

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

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

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

Nil.

#### **Part B**

Nil.

### *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 Council Directive [75/442/EEC](#), 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 Council Directive [75/442/EEC](#), 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 of Part A(1)**

**1.** In this Part—

“disposal” in paragraph (a) means any of the operations described in Annex IIA to Council Directive [75/442/EEC](#) on waste;

“hazardous waste” means waste as defined in Article 1(4) of Council Directive [91/689/EEC](#).

**2.** Paragraph (b) shall be interpreted in accordance with Article 1 of Council Directive [75/439/EEC](#).

**3.** Nothing in this Part applies to the treatment of waste soil by means of mobile plant.

**4.** The reference to a D paragraph number in brackets at the end of paragraphs (c)(i) and (ii) is to the number of the corresponding paragraph in Annex IIA to Council Directive [75/442/EEC](#) on waste (disposal operations).

**Part A(2)**

Nil.

**Part B**

Nil.

*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 12 to 14 of Part 2 of this Schedule.
- (c) Unless carried out as part of any other Part A activity, recovering hazardous waste in 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 of Part A(1)**

1. Nothing in paragraphs (a) and (b) of this Part applies to—
  - (a) distilling oil for the production or cleaning of vacuum pump oil; or
  - (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,

except where the activity involves distilling more than 100 tonnes per day.

2. Nothing in this Part applies to the treatment of waste soil by means of mobile plant.

3. The reference to a R paragraph number in brackets at the end of paragraphs (c)(i) to (vii) is to the number of the corresponding paragraph in Annex IIB of Council Directive [75/442/EEC](#) on waste (recovery operations).

**Part A(2)**

Nil.

**Part B**

Nil.

*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.

**Part A(2)**

Nil.

**Part B**

Nil.

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 listed in paragraph 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, 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)**

In paragraph (c), “paper pulp” includes pulp made from wood, grass, straw and similar materials and references to the making of paper are to the making of any product using paper pulp.

**Part A(2)**

Nil.

**Part B**

Nil.

*Section 6.2—Carbon Activities*

**Part A(1)**

- (a) Producing carbon or hard-burnt coal or electro graphite by means of incineration or graphitisation.

**Part A(2)**

Nil.

## **Part B**

Nil.

### *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 or bitumen for the manufacture of electrodes or carbon-based refractory materials,
- where the carrying out of the activity by the person concerned at the location in question is likely to involve the use in any period of 12 months of 5 tonnes or more of tar or of bitumen or, in aggregate, of both.

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

Nil.

## **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 out,
- where the carrying out of the activity is likely to involve the use in any period of 12 months of 5 tonnes or more of tar or of bitumen or, in aggregate, of both.

### **Interpretation of Part B**

In this Part “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 out 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 listed in paragraph 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, 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 A(2) of this Section or paragraph (c) of Part A(2) of Section 2.1, any process (other than for the repainting 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 period of 12 months of—
- (i) 20 tonnes or more of printing ink, paint or other coating material which is applied in solid form;
  - (ii) 20 tonnes or more of any metal coating which is sprayed on in molten form;
  - (iii) 25 tonnes or more of organic solvents in respect of any cold set web offset printing activity or any sheet fed offset litho printing activity; or
  - (iv) 5 tonnes or more of organic solvents in respect of any activity not mentioned in subparagraph (iii).
- (b) Unless falling within Part A(2) of this Section, repainting 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 tonne or more of organic solvents in any period of 12 months.
- (c) Repainting 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 out of the activity is likely to involve the use in any period of 12 months of—
- (i) 20 tonnes or more of any paint or other coating material which is applied in solid form;
  - (ii) 20 tonnes or more of any metal coatings which are sprayed on in molten form; or
  - (iii) 5 tonnes or more of organic solvents.

**Interpretation of Part B****1.** In this Part—

“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 shall 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.

*Section 6.5—The Manufacture of Dyestuffs, Printing Ink and Coating Materials*

**Part A(1)**

Nil.

**Part A(2)**

Nil.

**Part B**

- (a) Unless falling within Part A(1) or A(2) of any Section in this Schedule—
- (i) manufacturing or formulating printing ink or any other coating material containing, or involving the use of, an organic solvent, where the carrying out of the activity is likely to involve the use of 100 tonnes or more of organic solvents in any period of 12 months;
  - (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 period of 12 months.

**Interpretation of Part B**

1. In this Part, “coating material” has the same meaning as in Section 6.4.
2. The amount of organic solvents used in an activity shall be calculated as—
  - (i) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents for cleaning or other purposes; less
  - (ii) 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 listed in paragraph 13 of Part 2 of this Schedule is used.

**Part A(2)**

Nil.

**Part B**

- (a) Manufacturing products wholly or mainly of wood at any works if the activity involves the sawing, drilling, shaping, turning, planing, curing or chemical treatment of wood (“relevant activities”) and the throughput of the works in any period of 12 months is likely to be more than—
- (i) 10,000 cubic metres, in the case of works at which wood is sawed but at which wood is not subjected to any other relevant activities or is subjected only to relevant activities which are exempt activities; or
  - (ii) 1,000 cubic metres in any other case.

## **Interpretation of Part B**

In this Part—

“relevant activities” other than sawing are “exempt activities” where, if no sawing were carried out at the works, the activities carried out there would be unlikely to result in the release into the air of any substances listed in paragraph 12 of Part 2 of this Schedule in a quantity which is capable of causing significant harm;

“throughput” shall be calculated by reference to the amount of wood which is subjected to any of the relevant activities, but where, at the same works, wood is subject to two or more relevant activities, no account shall be taken of the second or any subsequent activity;

“wood” includes any product consisting wholly or mainly of wood; and

“works” includes a sawmill or any other premises on which relevant activities are carried out on wood.

### *Section 6.7—Activities Involving Rubber*

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

Nil.

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

Nil.

#### **Part B**

- (a) Unless falling within Part A(1) or A(2) of any Section in this Schedule, 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*

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

- (a) Tanning hides and skins at plant with a treatment capacity of more than 12 tonnes of finished products per day.
- (b) Slaughtering animals at 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, at plant with a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or, in aggregate, of both.
- (d) Treating and processing materials intended for the production of food products from—
  - (i) animal raw materials (other than milk) at plant with a finished product production capacity of more than 75 tonnes per day;

- (ii) vegetable raw materials at 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 of 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—
  - (i) the processing, storing or drying does not fall within another Section of this Schedule or Part A(2) of this Section and is not an exempt activity; and
  - (ii) it may result in the release into water of any substance listed in paragraph 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, 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, in aggregate, of both.

#### **Part B**

- (a) Processing, storing or drying by the application of heat of 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—
  - (i) the processing, storing or drying does not fall within another Section of this Schedule or Part A(1) or Part A(2) of this Section and is not an exempt activity; and
  - (ii) the processing, storing or drying may result in the release into the air of a substance described in paragraph 12 of Part 2 of this Schedule or any offensive smell noticeable outside the premises on which the activity is carried out.
- (b) Breeding maggots in any case where 5 kg or more of animal matter or of vegetable matter or, in aggregate, of both are introduced into the process in any week.

#### **Interpretation of Section 6.8**

In this Section—

“animal” includes a bird or a fish;

“exempt activity” means—

- (i) any activity carried out in a farm or agricultural holding other than the manufacture of goods for sale;
- (ii) the manufacture or preparation of food or drink for human consumption but excluding—
  - (1) the extraction, distillation or purification of animal or vegetable oil or fat otherwise than as a activity incidental to the cooking of food for human consumption;
  - (2) any activity involving the use of green offal or the boiling of blood except the cooking of food (other than tripe) for human consumption;

- (3) the cooking of tripe for human consumption elsewhere than on premises on which it is to be consumed;
  - (iii) the fleshing, cleaning and drying of pelts of fur-bearing mammals;
  - (iv) any activity carried on in connection with the operation of a knacker's yard, as defined in article 3(1) of the Animal By-Products Order 1999<sup>(26)</sup>;
  - (v) any activity for the manufacture of soap not falling within Part A(1) of Section 4.2;
  - (vi) the storage of vegetable matter not falling within any other Section of this Schedule;
  - (vii) the cleaning of shellfish shells;
  - (viii) the manufacture of starch;
  - (ix) the processing of animal or vegetable matter at premises for feeding a recognised pack of hounds registered under article 13 of the Animal By-Products Order 1999;
  - (x) the salting of hides or skins, unless related to any other activity listed in this Schedule;
  - (xi) 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;
  - (xii) any activity for cleaning, and any related activity for drying or dressing, seeds, bulbs, corms or tubers;
  - (xiii) the drying of grain or pulses;
  - (xiv) any activity for the production of cotton yarn from raw cotton or for the conversion of cotton yarn into cloth;
- “food” includes—
- (i) drink;
  - (ii) articles and substances of no nutritional value which are used for human consumption; and
  - (iii) 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.

### *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.

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

Nil.

#### **Part B**

Nil.

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<sup>(26)</sup> S.I. 1999/646.

## PART 2:

### INTERPRETATION OF PART 1

1. The following rules apply for the interpretation of Part 1 of this Schedule.

2.—(1) Subject to sub-paragraph (2), an activity shall not be taken to be a Part B activity if it cannot result in the release into the air of a substance listed in paragraph 12 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 an activity which may give rise to an offensive smell noticeable outside the site where the activity is carried out.

3. An activity shall not be taken to be an activity falling within Part 1 if it is carried out in a working museum to demonstrate an industrial activity of historic interest or if it is carried out for educational purposes in a school as defined in section 4(1) of the Education Act 1996(27).

4. 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 shall not be taken to be an activity falling within Part 1.

5. The running of an engine in order to test it before it is installed or in the course of its development shall not be taken to be an activity falling within Part 1.

6.—(1) The use of a fume cupboard shall not be taken to be an activity falling within Part 1 if it is used as a fume cupboard in a laboratory for research or testing and it is not—

- (i) a fume cupboard which is an industrial and continuous production activity enclosure; or
- (ii) a fume cupboard in which substances or materials are manufactured.

(2) In sub-paragraph (1) “fume cupboard” has the meaning given by the British Standard “Laboratory fume cupboards” published by the British Standards Institution numbered BS7258 : Part I : 1990.

7. An activity shall not be taken to fall within Part 1 if it is carried out as a domestic activity in connection with a private dwelling.

8. References in Part 1 to related activities are references to separate activities being carried out by the same person on the same site.

9.—(1) This paragraph applies for the purpose of determining whether an activity carried out in a stationary technical unit falls within a description in Part A(1) or A(2) 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 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, shall be added together and the total capacity shall be attributed to each part or unit for the purpose of determining whether the activity carried out in each part or unit falls within a description in Part A(1) or A(2).

(3) For the purpose of sub-paragraph (2), no account shall 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 A(2) by virtue of this paragraph it shall not be taken to be an activity falling within a description in Part B.

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(27) 1996 c. 56.

**10.**—(1) Where an activity falls within a description in Part A(1) and a description in Part A(2) that activity shall be regarded as falling only within that description which fits it most aptly.

(2) Where an activity falls within a description in Part A(1) and a description in Part B that activity shall be regarded as falling only within the description in Part A(1).

(3) Where an activity falls within a description in Part A(2) and a description in Part B that activity shall be regarded as falling only within the description in Part A(2).

**11.** In Part 1 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—

- (i) water supplied to the site where the activity is carried out;
- (ii) water abstracted for use in the activity; and
- (iii) precipitation onto the site on which the activity is carried out;

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

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

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

“Part B activity” means an activity falling within Part B of any Section in Part 1 of this Schedule.

**12.** References to, or to the release into the air of, a substance listed in this paragraph are to any of the following substances—

- oxides of sulphur and other sulphur compounds;
- oxides of nitrogen and other nitrogen compounds;
- oxides of carbon;
- organic compounds and partial oxidation products;
- metals, metalloids and their compounds;
- asbestos (suspended particulate matter and fibres), glass fibres and mineral fibres;
- halogens and their compounds;
- phosphorus and its compounds;
- particulate matter.

**13.** References to, or to the release into water of, a substance listed in this paragraph or to its release in a quantity which, in any period of 12 months, is greater than the background quantity by an amount specified in this paragraph are to the following substances and amounts—

<i>Substance</i>	<i>Amount greater than the background quantity (in grammes) in any period of 12 months</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

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

<i>Substance</i>	<i>Amount greater than the background quantity (in grammes) in any period of 12 months</i>
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 Altrazine and Simazine are released, the figure for both substances in aggregate is 350 grammes.

**14.—(1)** References to a substance listed in this paragraph are to any of the following substances

alkali metals and their oxides and alkaline earth metals and their oxides;  
organic solvents;  
azides;  
halogens and their covalent compounds;  
metal carbonyls;  
organo-metallic compounds;  
oxidising agents;  
polychlorinated dibenzofuran and any congener thereof;  
polychlorinated dibenzo-p-dioxin and any congener thereof;  
polyhalogenated biphenyls, terphenyls and naphthalenes;  
phosphorus;

(1)  
(1)

pesticides.

(2) In sub-paragraph (1), “pesticide” means any chemical substance or preparation prepared or used for destroying any pest, including those used for protecting plants or wood or other plant products from harmful organisms, regulating the growth of plants, giving protection against harmful creatures, rendering such creatures harmless, controlling organisms with harmful or unwanted effects on water systems, buildings or other structures, or on manufactured products, or protecting animals against ectoparasites.

## PART 3:

### INTERPRETATION OF “PART A INSTALLATION” ETC

**15.** For the purpose of these Regulations, subject to paragraph 17—

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

“Part A (1) installation” means an installation where a Part A(1) activity is carried out (including such an installation where a Part A(2) or Part B activity is also carried out);

“Part A(2) installation” means an installation, not being a Part A(1) installation, where a Part A(2) activity is carried out (including such an installation where a Part B activity is also carried out);

“Part B installation” means an installation where a Part B activity is carried out, not being a Part A installation.

**16.** For the purpose of these Regulations—

“Part A mobile plant” means Part A(1) mobile plant or Part A(2) mobile plant;

“Part A(1) mobile plant” means mobile plant used to carry out a Part A(1) activity (including such plant which is also used to carry out a Part A(2) or Part B activity);

“Part A(2) mobile plant” means mobile plant, not being Part A(1) mobile plant, used to carry out a Part A(2) activity (including such mobile plant used to carry out a Part B activity);

“Part B mobile plant” means mobile plant used to carry out a Part B activity, not being Part A mobile plant.

**17.—**(1) An installation where a Part A(2) activity is carried out (and no Part A(1) activity) shall nevertheless be a part A(1) installation if any waste activity is also carried out at the installation.

(2) In sub-paragraph (1) “waste activity” means an activity mentioned in paragraph (a) or (b) of section 33(1) of the Environmental Protection Act 1990 (deposit, keeping, treatment and disposal of waste) other than—

(a) the incineration of waste falling within Part B of Section 5.1 of Part 1 of this Schedule; and

(b) an exempt activity, as defined in regulation 1(3) of and Schedule 3 to the Waste Management Licensing Regulations 1994**(28)**.

**18.** A Part B installation where an activity within Part B of Section 1.1 is carried out does not include any location where the associated storage, handling or shredding of tyres which are to be burned as part of that activity is carried out.

**19.** A Part B installation where an activity falling within paragraph (e) of Part B of Section 2.2 is carried out does not include any location where the associated storage or handling of scrap which

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**(28)** S.I. 1994/1056. Schedule 3 is amended by S.I. 1995/288, 1996/634, 1996/972, 1998/606 and paragraph 35 of Schedule 10 to these Regulations.

is to be heated as part of that activity is carried out, other than a location where scrap is loaded into a furnace.

**20.** A Part B installation where an activity falling with paragraph (a) or (b) of Part B of Section 5.1 is carried out does not include any location where the associated storage or handling of wastes and residues which are to be incinerated as part of that activity is carried out, 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 out.

**21.** A Part B installation where an activity falling within Part B of Section 6.4 is carried out does not include any location where the associated cleaning of used storage drums prior to painting or their incidental handling in connection with such cleaning is carried out.

**22.** Where an installation is a Part A(1) installation, a Part A(2) installation or a Part B installation by virtue of the carrying out of an activity which is only carried out during part of a year that installation shall not cease to be such an installation during the parts of the year when that activity is not being carried out.

**23.** Where an installation is authorised by a permit granted under these Regulations to carry out Part A(1) activities, Part A(2) activities or Part B activities which are described in Part 1 by reference to a threshold (whether in terms of capacity or otherwise), the installation shall 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.

**24.** In this Part, “Part A(1) activity”, “Part A(2) activity” and “Part B activity” have the meaning given by paragraph 11 in Part 2 of this Schedule.

## SCHEDULE 2

Regulation 3

### BEST AVAILABLE TECHNIQUES

**1.** Subject to paragraph 2, in determining best available techniques special consideration shall be given to the following matters, bearing in mind the likely costs and benefits of a measure and the principles of precaution and prevention—

- (1) the use of low-waste technology;
- (2) the use of less hazardous substances;
- (3) the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate;
- (4) comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
- (5) technological advances and changes in scientific knowledge and understanding;
- (6) the nature, effects and volume of the emissions concerned;
- (7) the commissioning dates for new or existing installations or mobile plant;
- (8) the length of time needed to introduce the best available technique;
- (9) the consumption and nature of raw materials (including water) used in the process and the energy efficiency of the process;
- (10) the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;

- (11) the need to prevent accidents and to minimise the consequences for the environment;  
 (12) the information published by the Commission pursuant to Article 16(2) of the Directive or by international organisations.

2. Sub-paragraphs (1) to (3) and (9) to (12) shall not apply for the purposes of determining best available techniques in relation to Part B installations and Part B mobile plant.

### SCHEDULE 3

Regulations 9 and 10(14)

#### PRESCRIBED DATE AND TRANSITIONAL ARRANGEMENTS

#### PART 1:

##### PART A INSTALLATIONS AND MOBILE PLANT

1. The prescribed date for a new Part A installation or new Part A mobile plant is—
- where an application for a permit to operate the installation or mobile plant is duly made before 1st January 2001, the determination date for the installation or mobile plant;
  - where no such application is made, 1st January 2001.
- 2.—(1) Subject to paragraph 4, the prescribed date for an existing Part A installation or existing Part A mobile plant is—
- where an application for a permit to operate the installation or mobile plant is duly made within the relevant period (or before the beginning of the relevant period where allowed under paragraph 5), the determination date for the installation or mobile plant;
  - where no such application is made, the day after the date on which the relevant period expires.
- (2) For the purpose of sub-paragraph (1) the relevant period for an existing Part A installation or existing Part A mobile plant is the period specified for that description of installation or mobile plant in the following table—

<b>Any installation where an activity falling within the following Section of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</b>	<b>Relevant Period</b>
<b>Section 1.1</b>	
Part A(1)	1st January to 31st March 2006
<b>Section 1.2</b>	
<b>Part A(1)</b>	
Paragraph (c)	1st June to 31st August 2001
Remaining paragraphs	1st June to 31st August 2006
Part A(2)	1st June to 31st August 2006
<b>Section 2.1</b>	
<b>Part A(1)</b>	
Paragraph (c)	1st May to 31st July 2002

<b>Any installation where an activity falling within the following Section of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</b>	<b>Relevant Period</b>
Remaining paragraphs	1st June to 31st August 2001
Part A(2)	1st May to 31st July 2002
<b>Section 2.2</b>	
Part A(1)	1st October to 31st December 2001
Part A(2)	1st May to 31st July 2003
<b>Section 2.3</b>	
Part A(1)	1st May to 31st July 2004
<b>Section 3.1</b>	
Part A(1)	1st June to 31st August 2001
<b>Section 3.2</b>	
Part A(1)	1st June to 31st August 2006
<b>Section 3.3</b>	
Part A(1)	1st May to 31st July 2002
Part A(2)	1st May to 31st July 2002
<b>Section 3.4</b>	
Part A(1)	1st May to 31st July 2002
<b>Section 3.6</b>	
Part A(1)	1st January to 31st March 2004
Part A(2)	1st January to 31st March 2004
<b>Section 4.1 Part A(1)</b>	
Paragraphs (a)(i), (v), (vi), (vii), (b), (f), (g)	1st January to 31st March 2003
Paragraphs (a)(ii), (iii), (iv)	1st June to 31st August 2003
Paragraphs (a)(viii), (ix), (c), (d), (e)	1st January to 31st March 2006
Paragraphs (a) (x)-(xi)	1st June to 31st August 2006
<b>Section 4.2 Part A(1)</b>	
Paragraphs (a)(i), (ii), (iii), (vi), (b) to (j)	1st October to 31st December 2004
Paragraphs (a)(iv), (v)	1st June to 31st August 2005
<b>Section 4.3</b>	
Part A(1)	1st June to 31st August 2005
<b>Section 4.4</b>	
Part A(1)	1st January to 31st March 2006
<b>Section 4.5</b>	
Part A(1)	1st January to 31st March 2006
<b>Section 4.6</b>	
Part A(1)	1st January to 31st March 2006
<b>Section 4.7</b>	

<b>Any installation where an activity falling within the following Section of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</b>	<b>Relevant Period</b>
Part A(1)	1st October to 31st December 2004
<b>Section 5.1</b>	
Part A(1)	1st June to 31st August 2005
<b>Section 5.2</b>	
Part A(1)	1st January to 31st March 2007
<b>Section 5.3 Part A(1)</b>	
Paragraph (a)	1st June to 31st August 2005
Paragraph (b)	1st June to 31st August 2005
Paragraph (c)(i)	1st January to 31st March 2004
Paragraph (c)(ii)	1st June to 31st August 2004
<b>Section 5.4</b>	
Part A(1)	1st January to 31st March 2005
<b>Section 5.5</b>	
Part A(1)	1st January to 31st March 2004
<b>Section 6.1</b>	
Part A(1)	1st December 2000 to 28th February 2001
<b>Section 6.2</b>	
Part A(1)	1st January to 31st March 2004
<b>Section 6.3 Part A(1)</b>	
Paragraph (a)(i)	1st January to 31st March 2004
Paragraph (a)(ii)	1st October to 31st December 2001
<b>Section 6.4</b>	
Part A(1)	1st May to 31st July 2002
Part A(2)	1st May to 31st July 2003
<b>Section 6.6</b>	
Part A(1)	1st June to 31st August 2006
<b>Section 6.8</b>	
<b>Part A(1)</b>	
Paragraph (a)	1st May to 31st July 2002
Paragraphs (b), (c), (d)(i)	1st June to 31st August 2004
Paragraphs (d)(ii), (e), (f)	1st January to 31st March 2005
Part A(2)	1st June to 31st August 2004
<b>Section 6.9</b>	
Part A(1)	1st November 2006 to 31st January 2007

(3) For the purpose of sub-paragraph (2), where an activity falls within a description in Part A(1) of more than one Section of Part 1 of Schedule 1 or within a description in Part A(2) of more than

one Section of Part 1 of Schedule 1 it shall be regarded as falling only within that description which fits it most aptly.

(4) Subject to sub-paragraph (5), where more than one activity falling within Part A(1) or A(2) of any Section in Part 1 of Schedule 1 is carried out in an existing Part A installation or using an existing Part A mobile plant, the relevant period for that installation or mobile plant shall be the period beginning with the earliest date listed against one of those activities in the table in sub-paragraph (2).

(5) Where more than one activity falling within Part A(1) or A(2) of any Section in Part 1 of Schedule 1 is carried out in an existing Part A installation, the operator of the installation may apply to the regulator to determine that the relevant period for the installation shall not be the period determined by sub-paragraph (4) but the later period listed in the table in sub-paragraph (2) against the primary activity of the installation.

(6) An application under sub-paragraph (5) shall be in writing and shall—

- (a) identify the installation concerned;
- (b) list the activities falling within Part A(1) or A(2) of any Section in Part 1 of Schedule 1 which are carried out in the installation;
- (c) identify which of those activities the operator considers to be the primary activity,

and shall be submitted at least 3 months before the beginning of the period which would be the relevant period for the installation concerned under sub-paragraph (4).

(7) Where a regulator receives a duly made application under sub-paragraph (5) it shall, if it agrees with the operator that the activity identified pursuant to sub-paragraph (6)(c) is the primary activity, serve notice of this determination on the operator, and the period listed against that activity in sub-paragraph (2) shall be the relevant period for the installation.

(8) Where the regulator does not agree with the operator as mentioned in sub-paragraph (7) it shall serve notice of this determination on the operator and the relevant period for the installation shall be the period determined by sub-paragraph (4).

(9) A regulator shall serve notice of its determination of any application made under sub-paragraph (5) within 2 months of receiving the application.

(10) Where there is more than one operator of an installation, an application under sub-paragraph (5) shall be made by the operators of the installation jointly and the references in sub-paragraphs (6) to (8) to the operator shall be construed as a reference to all of the operators.

(11) For the purpose of sub-paragraphs (5) to (9) the primary activity of an installation is the activity the carrying out of which constitutes the primary purpose for operating the installation.

**3.** For the purpose of paragraphs 1 and 2, where separate applications are made to operate different parts of a Part A installation—

- (a) the date by which applications have been made in relation to all parts of the installation shall be treated as the date on which an application for a permit to operate the installation is made;
- (b) an application for a permit to operate the installation shall only be treated as having been duly made if each of the separate applications are duly made;
- (c) the determination date for the installation shall be, in relation to each part of the installation which is covered by a separate application, the determination date for that part of the installation.

**4.—(1)** Where there is a substantial change in the operation of an existing Part A installation on or after 31st October 1999 and before 1st January 2001, the prescribed date for that part of the installation affected by the change shall be—

- (a) where an application for a permit authorising the operation of that part of the installation is duly made before 1st January 2001, the determination date for that part of the installation;
- (b) where no such application is made, 1st January 2001.

(2) Where there is a substantial change in the operation of an existing Part A installation on or after 1st January 2001, the prescribed date for that part of the installation affected by the change shall be the date on which the change is made if earlier than the date which would be the prescribed date for the installation under paragraph 2.

5.—(1) Subject to sub-paragraph (2), an application for a permit to operate an existing Part A installation or Part A mobile plant shall not be made before the beginning of the relevant period for that installation or mobile plant without the consent of the regulator.

(2) Where an operator of an existing Part A installation proposes to make a substantial change in the operation of the installation he may make an application before the beginning of the relevant period for a permit to operate that part of the installation that will be affected by the substantial change.

6. In this Part of this Schedule—

“determination date” means—

- (a) for an installation, part of an installation or mobile plant in relation to which a permit is granted, the date on which it is granted, whether in pursuance of the application for the permit or, on an appeal, of a direction to grant it;
- (b) for an installation, part of an installation or mobile plant in relation to which a permit is refused and the applicant for the permit appeals against the refusal, the date of the affirmation of the refusal;
- (c) for an installation, part of an installation or mobile plant in relation to which a permit is refused and no appeal is made against the refusal, the date immediately following the last day, determined in accordance with paragraph 2 of Schedule 8, on which notice of appeal might have been given.

“existing” means, in relation to a Part A installation or a Part A mobile plant—

- (a) an installation or mobile plant which is put in to operation before 31st October 1999; or
- (b) an installation or mobile plant which is put into operation on or after that date but before 31st October 2000, provided that—
  - (i) the operation of the installation or mobile plant was authorised by the relevant authorisation before 31st October 1999; or
  - (ii) an application for such authorisation was duly made before that date;

“new” means, in relation to a Part A installation or a Part A mobile plant, an installation or plant which is put into operation on or after 31st October 1999 other than an existing Part A installation or Part A mobile plant;

“relevant authorisation” means, in relation to the operation of a Part A installation or Part A mobile plant—

- (a) where the operation of the installation or mobile plant immediately before 31st October 1999 requires an authorisation under Part I of the Environmental Protection Act 1990, an authorisation under that Part of that Act;
- (b) where the operation of the installation or mobile plant immediately before 31st October 1999 requires a waste management licence under Part II of the Environmental Protection Act 1990, a waste management licence under that Part of that Act;
- (c) in any other case, planning permission granted under the Town and Country Planning Act 1990;

“relevant period” shall be interpreted in accordance with paragraph 2.

## PART 2:

### PART B INSTALLATIONS AND MOBILE PLANT

7. The prescribed date for a new Part B installation or a new Part B mobile plant is the relevant date for that installation or mobile plant.

8. The prescribed date for an existing Part B installation or existing Part B mobile plant is the determination date for that installation or mobile plant.

9.—(1) Subject to the following provisions of this paragraph, no application for a permit to operate an existing Part B installation or existing Part B mobile plant shall be made to the regulator.

(2) Where an operator of a Part B installation or a Part B mobile plant proposes to put the installation or mobile plant into operation during the period of four months ending on the relevant date for the installation or mobile plant, he may make an application for a permit to operate that installation or mobile plant.

(3) The operator of an existing Part B installation or existing Part B mobile plant shall, unless he has made an application to operate the installation or mobile plant under sub-paragraph (2), be deemed to have made an application for a permit to operate that installation or mobile plant on the relevant date for that installation or mobile plant.

(4) Where sub-paragraph (3) applies in relation to an existing Part B installation and different parts of the installation are operated by different operators, each operator shall be deemed to have been made an application to operate that part of the installation which he operates.

(5) Schedule 4 shall not apply to a deemed application under sub-paragraph (3).

(6) The regulator shall give notice of its determination of a deemed application under sub-paragraph (3) to the applicant within the period of 12 months beginning with the date on which the application is deemed to have been made and if the regulator fails to give notice of its determination within that period the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

(7) Where sub-paragraph (3) applies the regulator shall, within 2 months of the date on which the application is deemed to have been made, notify the operator of the installation or mobile plant of the deemed application and of the requirements of sub-paragraph (6).

(8) Where separate applications are deemed to have been made under sub-paragraph (4) to operate different parts of a Part B installation the prescribed date for the installation shall be, in relation to each part of the installation covered by a separate application, the determination date for that part of the installation.

10.—(1) For the purpose of this Part of this Schedule the relevant date for a Part B installation or a Part B mobile plant is the date specified for that description of installation or mobile plant in the following table—

<b>Any installation where an activity falling within Part B of the following Sections of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</b>	<b>Relevant Date</b>
Section 1.1	1st April 2002

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<b>Any installation where an activity falling within Part B of the following Sections of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</b>	<b>Relevant Date</b>
Section 1.2	1st April 2004
Section 2.1	1st April 2003
Section 2.2	1st April 2003
Section 2.3	1st April 2003
Section 3.1	1st April 2002
Section 3.2	1st April 2002
Section 3.3	1st April 2004
Section 3.5	1st April 2002
Section 3.6	1st April 2002
Section 4.1	1st April 2004
Section 4.8	1st April 2004
Section 5.1	1st April 2002
Section 6.3	1st April 2004
Section 6.4	1st April 2003
Section 6.5	1st April 2003
Section 6.6	1st April 2002
Section 6.7	1st April 2003
Section 6.8	1st April 2004

(2) For the purpose of sub-paragraph (1), where an activity falls within a description in Part B of more than one Section of Part 1 of Schedule 1 it shall be regarded as falling only within that description which fits it most aptly.

(3) Where more than one activity falling within Part B of any Section in Part 1 of Schedule 1 is carried out in an existing Part B installation or using an existing Part B mobile plant, and the activities have different relevant dates, the relevant date for that installation or mobile plant shall be the earliest of those dates.

**11.** In this Part of this Schedule—

“determination date” means—

- (a) for an installation, part of an installation or mobile plant in relation to which a permit is granted, the date on which it is granted, whether in pursuance of the application for the permit or, on an appeal, of a direction to grant it;
- (b) for an installation, part of an installation or mobile plant in relation to which a permit is refused and the applicant for the permit appeals against the refusal, the date of the affirmation of the refusal;
- (c) for an installation, part of an installation or mobile plant in relation to which a permit is refused and no appeal is made against the refusal, the date immediately following the

last day, determined in accordance with paragraph 2 of Schedule 8, on which notice of appeal might have been given.

“existing” means, in relation to a Part B installation or Part B mobile plant, an installation or mobile plant which is put into operation before the relevant date for that installation or mobile plant;

“new” means, in relation to a Part B installation or Part B mobile plant, an installation or mobile plant which is put into operation on or after the relevant date for that installation or mobile plant;

“relevant date” shall be interpreted in accordance with paragraph 10.

## SCHEDULE 4

Regulation 10

### GRANT OF PERMITS

#### PART 1:

#### APPLICATIONS FOR PERMITS

1.—(1) An application to a regulator for a permit under regulation 10 shall be in writing and, subject to paragraphs 2 and 3, shall contain the following information—

- (a) the name of the applicant, his telephone number and address (including post code) and, if different, any address to which correspondence relating to the application should be sent and, if the applicant is a body corporate, its registered number, the address of its registered or principal office and, if that body corporate is a subsidiary of a holding company (within the meaning of section 736 of the Companies Act 1985<sup>(29)</sup>), the name of the ultimate holding company and the address of its registered or principal office;
- (b) in the case of an application for a permit to operate an installation or Part A mobile plant, the address of the site of the installation or mobile plant and its national grid reference, a map or plan showing that site and, in the case of an installation, the location of the installation on that site, and the name of any local authority in whose area the site is situated;
- (c) in the case of an application for a permit to operate a Part B mobile plant, the name of the local authority in whose area the applicant has his principal place of business and the address of that place of business or, where the operator of the mobile plant has his principal place of business outside of England and Wales, the name of the local authority in whose area the plant was first operated or, where the plant has not been operated in England and Wales, the local authority in whose area it is intended by the operator that the plant will first be operated;
- (d) in the case of an application for a permit to operate a Part A installation or a Part A mobile plant, a site report containing the information required by sub-paragraph (2);
- (e) a description of the installation or mobile plant, the activities listed in Part 1 of Schedule 1 to be carried out in the installation or by means of the mobile plant, and, in the case of an installation, any other directly associated activities to be carried out on the same site as the installation which will have a technical connection with those listed activities and which could have an effect on pollution;

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<sup>(29)</sup> 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

- (f) the raw and auxiliary materials and other substances and the energy to be used in or generated by the carrying out of the activities referred to in paragraph (e);
- (g) the nature, quantities and sources of foreseeable emissions from the installation or mobile plant into each environmental medium, and a description of any foreseeable significant effects of the emissions on the environment;
- (h) the proposed technology and other techniques for preventing or, where that is not practicable, reducing emissions from the installation or mobile plant;
- (i) the proposed measures to be taken to monitor the emissions;
- (j) a description of the measures to be taken for the prevention and recovery of waste generated by the operation of the installation or mobile plant;
- (k) a description of any proposed additional measures to be taken to comply with the general principles set out in regulation 11;
- (l) in the case of an application for a permit to operate a Part A installation, any relevant information obtained or conclusion arrived at in relation to the installation pursuant to articles 5, 6 and 7 of Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment<sup>(30)</sup>;
- (m) in the case of an application for a permit to operate an installation or mobile plant covered by general binding rules, a statement as to whether the applicant wishes the aspects of the operation of the installation or mobile plant covered by the requirements in the rules to be subject to those requirements instead of conditions included in the permit pursuant to regulation 12;
- (n) in the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation or by means of mobile plant, any information which the applicant wishes the regulator to take into account when considering whether the applicant is a fit and proper person to carry out that activity;
- (o) any additional information which the applicant wishes the regulator to take into account in considering the application;
- (p) a non-technical summary of the information referred to in the previous sub-paragraphs.

(2) The site report required by paragraph 1(1)(d) shall describe the condition of the site of the installation or Part A mobile plant and shall, in particular, identify any substance in, on or under the land which may constitute a pollution risk.

2. Paragraph 1(1)(f), (j) and (p) shall not apply in relation to an application for a permit to operate a Part B installation or a Part B mobile plant, and, in relation to such an application, the reference to emissions from the installation or mobile plant into each environmental medium in paragraph 1(1) (g) shall be read as a reference to emissions from the installation or mobile plant into the air.

3.—(1) Paragraph 1(1) shall apply in relation to an application for a permit to operate an installation involving the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts as if, in so far as the installation is concerned with the carrying out of that activity, the following sub-paragraphs were substituted for sub-paragraphs (e) to (h)—

- “(e) the name and number, if any, of the appliance used for the burning of the waste oil, and the name of its manufacturer, its rated thermal input and whether or not it is constructed or adapted so as to comply with the specification for fixed, flued fan-assisted heaters in Part 2 of the specification for oil-burning air heaters published by the British Standards Institution and numbered BS 4256 1972;
- (f) details of the type of fuel to be used and its source;

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(30) OJ No. L 175, 5.7.85, p. 40 (as amended by Council Directive [97/11/EC](#) (OJ No. L 73, 14.3.97, p. 5)).

- (g) details of the height and location of any chimney through which waste gases produced by the appliance would be carried away and details of the efflux velocity of the waste gases leaving such a chimney produced by the appliance in normal operation;
- (h) details of the location of the fuel storage tanks of the appliance;”.

(2) In this paragraph and in paragraphs 8 and 10 “waste oil” has the same meaning as in Section 1.1 of Part 1 of Schedule 1.

4. The regulator may, by notice to the applicant, require him to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining the application and if the applicant fails to furnish the specified information within the period specified the application shall, if the regulator gives notice to the operator that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

5. Subject to paragraph 23, the applicant shall, within a period of 28 days beginning 14 days after the date on which his application is made, advertise the application—

- (a) in the case of an application for a permit to operate an installation or Part A mobile plant, in one or more newspapers circulating in the locality in which the installation or mobile plant covered by the application will be operated;
- (b) in the case of an application for a permit to operate a Part A installation or Part A mobile plant, in the London Gazette.

6. An advertisement required by paragraph 5 shall:

- (a) state the name of the applicant;
- (b) in the case of an application for a permit to operate an installation or Part A mobile plant, state the address of the site of the installation or mobile plant;
- (c) describe briefly the activities in Part 1 of Schedule 1 to be carried out in the installation or mobile plant;
- (d) state that the application contains a description of any foreseeable significant effects of emissions from the installation or mobile plant on the environment;
- (e) state where any register which contains particulars of the application may be inspected and that it may be inspected free of charge;
- (f) explain that any person may make representations in writing to the regulator within the period of 28 days beginning with the date of the advertisement and give the regulator’s address for receiving the representations;
- (g) explain that any such representations made by any person will be entered in a public register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request.

7. Where an application is for a permit to operate more than one installation or mobile plant the application and the advertisement required by paragraph 5 shall contain the information required by paragraphs 1 and 6 respectively in relation to each installation or mobile plant.

8. Paragraph 5 shall not apply in relation to an application for a permit to operate an installation involving only the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts or the carrying out of an activity falling within paragraph (d) of Part B of Section 1.2 of Part 1 of Schedule 1 (unloading of petrol at service stations).

## PART 2: DETERMINATION OF APPLICATIONS

9.—(1) Subject to paragraph 23, the regulator shall, within 14 days of receiving an application for a permit, give notice of the application, enclosing a copy of it, to the following persons—

- (a) in the case of an application for a permit to operate an installation or Part A mobile plant, the Health Authority in whose area the installation or mobile plant will be operated;
- (b) in the case of an application for a permit to operate a Part A installation or Part A mobile plant—
  - (i) the Food Standards Agency<sup>(31)</sup>;
  - (ii) where the operation of the installation or mobile plant may involve the release of any substance into a sewer vested in a sewerage undertaker, that undertaker;
  - (iii) where the operation of the installation or mobile plant may involve an emission which may affect a site of special scientific interest or a European site, the Nature Conservancy Council for England, where the site is in England, the Countryside Council for Wales, where the site is in Wales, and Scottish National Heritage, where the site is in Scotland<sup>(32)</sup>;
  - (iv) where the operation of the installation or mobile plant may involve the release of any substance into a harbour managed by a harbour authority, that harbour authority;
  - (v) where the operation of the installation or mobile plant may involve the release of any substance directly into relevant territorial waters or coastal waters within the sea fisheries district of a local fisheries committee, that committee;
  - (vi) where the application will be determined by the Environment Agency, the local authority regulator in whose area the installation or mobile plant will be operated;
  - (vii) where the application will be determined by a local authority regulator, the Environment Agency;
  - (viii) where the operation of the installation or mobile plant will involve the carrying out of a specified waste management activity, the relevant planning authority;
  - (ix) where the installation or the mobile plant will be operated in Wales, the Secretary of State for Wales;
- (c) in the case of an application for a permit to operate a Part B installation where the operation of the installation may involve an emission which may affect a site of special scientific interest or a European site, the Nature Conservancy Council for England, where the site is in England, the Countryside Council for Wales, where the site is in Wales, and Scottish National Heritage, where the site is in Scotland;
- (d) in the case of an application for a permit to operate a Part A installation or a Part B installation on a site in respect of which a nuclear site licence is required under section 1 of the Nuclear Installations Act 1965<sup>(33)</sup>, a major accident prevention policy document is required under regulation 5 of the Control of Major Accident Hazards Regulations 1999<sup>(34)</sup> or a safety report is required under regulation 7 of those Regulations, the Health and Safety Executive<sup>(35)</sup>;

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<sup>(31)</sup> See section 1 of the Food Standards Act 1999 (c. 28).

<sup>(32)</sup> See section 128 of the Environmental Protection Act 1990 (c. 43) and section 1 of the Natural Heritage (Scotland) Act 1991 (c. 28).

<sup>(33)</sup> 1965 c. 57: section 1 was amended by S.I. 1974/2056 and S.I. 1990/1918.

<sup>(34)</sup> S.I. 1999/743.

<sup>(35)</sup> See section 10 of the Health and Safety at Work etc Act 1974 (c. 37).

- (e) in the case of an application for a permit to operate a Part B installation involving only the carrying out of an activity falling within paragraph (d) of Part B of Section 1.2 of Part 1 of Schedule 1 (unloading of petrol at service stations), the petroleum licensing authority for that installation;
  - (f) in the case of all applications, such other persons as the Secretary of State may direct.
- (2) In sub-paragraph (1)—
- “European site” has the same meaning as in regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994<sup>(36)</sup>;
  - “harbour authority” has the same meaning as in section 57(1) of the Harbours Act 1964<sup>(37)</sup>;
  - “health authority” means an authority established under section 8 of the National Health Service Act 1977<sup>(38)</sup>;
  - “local fisheries committee” means a committee constituted under section 1(1)(c) of the Sea Fisheries Regulation Act 1966<sup>(39)</sup> and the reference to the sea fisheries district of such a committee refers to the district of that committee created under section 1(1)(a) of that Act;
  - “petroleum licensing authority” means a local authority empowered to grant petroleum spirit licences under the Petroleum (Consolidation) Act 1928<sup>(40)</sup>;
  - “relevant planning authority” means, in relation to an application for a permit to operate an installation which will involve the carrying out of a specified waste management activity, the authority to whom it would fall to determine an application for planning permission authorising the use of the application site for the carrying out of that activity under the Town and Country Planning Act 1990 (assuming that there was no direction under section 77 of that Act<sup>(41)</sup> (reference of applications to the Secretary of State)).

**10.** Paragraph 9 shall not apply in relation to an application for a permit to operate an installation involving only the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts.

**11.—**(1) If the regulator proposes to grant a permit subject to an off-site condition, it shall, before granting the permit, give a notice which complies with sub-paragraph (2) to every person appearing to it to be a person falling within sub-paragraph (3).

- (2) A notice served under sub-paragraph (1) shall—
- (a) set out the off-site condition in question;
  - (b) indicate the nature of the works or things which that condition might require the holder of the permit to carry out or do; and
  - (c) specify the period allowed for the purpose of paragraph 12 for making representations to the regulator relating to the condition or its possible effects and the manner in which any such representations are to be made.
- (3) A person falls within this sub-paragraph if—
- (a) he is the owner, lessee or occupier of land; and
  - (b) that land is land in relation to which it is likely that, as a consequence of the permit being issued subject to the off-site condition in question, rights will have to be granted by virtue of regulation 12(12) to the holder of the permit.

<sup>(36)</sup> S.I. 1994/2716; regulation 10(1) was amended by S.I. 2000/192.

<sup>(37)</sup> 1964 c. 40.

<sup>(38)</sup> 1977 c. 49; section 8 was substituted by section 1(1) of the Health Authorities Act 1995 (c. 17).

<sup>(39)</sup> 1966 c. 38; section 1 was amended by the Local Government Act 1972 (c. 70), Schedule 30 and the Local Government Act 1985 (c. 51), Schedule 8.

<sup>(40)</sup> 1928 c. 32 (18 & 19 Geo.V).

<sup>(41)</sup> Section 77 was amended by the Planning and Compensation Act 1991 (c. 34), Schedule 7, paragraph 18.

- (4) In sub-paragraph (2), “owner” means the person who—
- (a) is for the time being receiving the rack-rent of the land, whether on his 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.

**12.**—(1) Any representations made by any persons within the period allowed shall be considered by the regulator in determining the application.

- (2) For the purpose of sub-paragraph (1), the period allowed for making representations is:
- (a) in the case of any person to whom notice is given pursuant to paragraph 9 or 11, the period of 28 days beginning with the date on which notice is given under the relevant paragraph;
  - (b) in the case of any other person, the period of 28 days beginning with the date on which the application is advertised pursuant to paragraph 5.

**13.** In the case of an application for a permit to operate a Part A installation, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment in relation to the installation shall be taken into consideration by the regulator in determining the application.

**14.**—(1) The Secretary of State may give directions to the regulator requiring that any particular application or any class of applications for a permit shall be referred to him for determination pending a further direction under sub-paragraph (6).

(2) The regulator shall inform the applicant of the fact that his application is being referred to the Secretary of State and forward to the Secretary of State any representations which have been made to the regulator within the period allowed.

(3) Where an application for a permit is referred to him under sub-paragraph (1), the Secretary of State may afford the applicant and the regulator an opportunity of appearing before and being heard by a person appointed by him and he shall 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 sub-paragraph (3) shall be in writing and shall be made within the period of 21 days beginning with the day on which the applicant is informed that the application is being referred to the Secretary of State.

(5) Sub-paragraphs (2) to (10) of paragraph 4 of Schedule 8 shall apply to a hearing held under sub-paragraph (3) as they apply to a hearing held under paragraph 4(1) of that Schedule, but with the following modifications—

- (a) with the substitution in sub-paragraph (3) for the reference to the appellant of a reference to the applicant;
- (b) with the substitution in sub-paragraph (4)—
  - (i) for the reference to the appeal of a reference to the application; and
  - (ii) for the reference to every person mentioned in paragraph 3(1)(a) of Schedule 8 and every person mentioned in paragraph 3(1)(b) and (c) of that Schedule who has made representations in writing to the Secretary of State of a reference to every person who was required to be given notice under paragraph 9 of this Schedule and to any person who made representations to the regulator with respect to the subject matter of the application;
- (c) with the substitution in sub-paragraph (7)—

- (i) for the reference in sub-paragraph (7)(a) to the appellant of a reference to the applicant;
- (ii) for the reference in sub-paragraph (7)(c) to any person required under paragraph 3(1)(a) of Schedule 8 to be notified of the appeal of a reference to any person required under paragraph 9 of this Schedule to be notified of the application.

(6) The Secretary of State shall, on determining any application transferred to him under this paragraph, give to the regulator such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the permit.

**15.**—(1) Except in a case where an application has been referred to the Secretary of State under paragraph 14 and subject to paragraph 18, the regulator shall give notice of its determination of an application for a permit within the period of four months beginning with the day on which it received the application or within such longer period as may be agreed with the applicant.

(2) For the purpose of calculating the period of four months mentioned in sub-paragraph (1) no account shall be taken of—

- (a) any period beginning with the date on which notice is served on the applicant under paragraph 4 and ending on the date on which the applicant furnishes the information specified in the notice;
- (b) any period allowed for making representations in relation to a notice given pursuant to paragraph 11 in so far as that period does not overlap with any other period allowed for making representations in accordance with paragraph 12;
- (c) where a matter falls to be determined under regulation 30 or 31, any period beginning with the date on which the period of 28 days referred to in paragraph 5 ends and ending on the date on which the application is advertised in accordance with paragraph 23(a).

**16.** If the regulator fails to give notice of its determination of an application for a permit within the period allowed by or under paragraph 15, the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

**17.** Where the Secretary of State is aware that the operation of an installation carrying out an activity listed in Annex I to the Directive in England or Wales is likely to have significant negative effects on the environment of another member State, or where another member State likely to be significantly affected so requests, the Secretary of State shall forward a copy of the application to operate that installation to the other member State at the same time as the application is advertised pursuant to paragraph 5 (or as soon as he becomes so aware or receives such a request, if he becomes so aware or receives such a request after the application is advertised but before the application is determined) in order that the application may serve as the basis for any consultations necessary in the framework of the bilateral relations between the United Kingdom and the other member State on a reciprocal and equivalent basis, as referred to in Article 17 of the Directive.

**18.**—(1) Where an application is forwarded to another member State pursuant to paragraph 17 the Secretary of State shall notify the applicant and the regulator and, in a case where the application has not been referred to the Secretary of State under paragraph 14—

- (a) the regulator shall not determine the application until the Secretary of State has notified it in writing that the bilateral consultations mentioned in paragraph 17 have been completed and has forwarded to it any representations duly made on the application by persons in the other member State which have been forwarded to the Secretary of State; and
- (b) the period of four months within which to give notice of determination of the application set out in paragraph 15 shall begin on the date on which the regulator receives the Secretary of State's notification that the bilateral consultations have been completed.

(2) In determining an application which is forwarded to another member State pursuant to paragraph 17 the regulator, or the Secretary of State if the application has been referred to him, shall take into consideration any representations duly made in the other member State which have been forwarded to the Secretary of State.

19. In paragraphs 17 and 18, “member state” shall be taken to include Norway, Iceland and Liechtenstein<sup>(42)</sup>.

## PART 3:

### NATIONAL SECURITY AND CONFIDENTIAL INFORMATION

20. The requirements of paragraph 5 of this Schedule shall not apply in so far as they would require the advertisement of information mentioned in paragraph 6 which is not to be included in the register by virtue of regulation 30 or 31.

21. Subject to paragraph 22, the requirements of paragraph 9(1)(b)(ii), (iii) and (iv) and (c) shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 30 or 31.

22. Paragraph 21 does not apply in so far as—

- (a) in the case of a person mentioned in paragraph 9(1)(b)(ii), the information is about the release of any substance into a sewer vested in that person;
- (b) in the case of a person mentioned in paragraph 9(1)(b)(iii) and (c), the information is about the release of any substance which may affect a site of special scientific interest or European site (as defined in paragraph 9(2));
- (c) in the case of a person mentioned in paragraph 9(1)(b)(iv), the information is about the release of any substance into a harbour managed by that person.

23. Where a matter falls to be determined under regulation 30 or 31—

- (a) the period within which an advertisement is to be published under paragraph 5 shall be 28 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of;
- (b) the period for notification under paragraph 9(1) of this Schedule shall be the period of 14 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of.

24. For the purpose of paragraph 23, the matters to be determined under regulation 30 or 31 are finally disposed of—

- (a) in a case where the Secretary of State determines under regulation 30 whether or not information is to be included in the register, on the date on which the Secretary of State so determines;
- (b) in a case where the regulator determines under regulation 31(2) or (5) that the information in question is commercially confidential, on the date of the regulator’s determination;
- (c) in a case where the regulator determines under regulation 31(2) or (5) that the information in question is not commercially confidential, on the date on which the period for bringing an appeal expires without an appeal being brought or, if such an appeal is brought within that period, on the date of the Secretary of State’s final determination of the appeal or, as the case may be, the date on which the appeal is withdrawn.

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(42) The Directive is extended to the European Economic Area by the decision of the EEA Joint Committee No. 27/97 of 30.4.97 (OJ No. L 242, 4.9.97, p. 76).

## SCHEDULE 5

Regulation 12(2)

### POLLUTANTS

Indicative list of the main polluting substances to be taken into account if they are relevant for fixing emission limit values

#### **AIR**

1. Sulphur dioxide and other sulphur compounds.
2. Oxides of nitrogen and other nitrogen compounds.
3. Carbon monoxide.
4. Volatile organic compounds.
5. Metals and their compounds.
6. Dust.
7. Asbestos (suspended particulates, fibres).
8. Chlorine and its compounds.
9. Fluorine and its compounds.
10. Arsenic and its compounds.
11. Cyanides.
12. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air.
13. Polychlorinated dibenzodioxins and polychlorinated dibenzofurans.

#### **WATER**

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment.
2. Organophosphorus compounds.
3. Organotin compounds.
4. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment.
5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances.
6. Cyanides.
7. Metals and their compounds.
8. Arsenic and its compounds.
9. Biocides and plant health products.
10. Materials in suspension.
11. Substances which contribute to eutrophication (in particular, nitrates and phosphates).
12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc.).

## SCHEDULE 6

Regulation 12(13)

## COMPENSATION IN RELATION TO OFF-SITE CONDITIONS

- 1.—(1) This Schedule applies in any case where—
- (a) an operator is required by an off-site condition in his permit to carry out works or do other things in relation to land not forming part of the site of the installation or mobile plant notwithstanding that he is not entitled to carry out the works or do the things;
  - (b) a person whose consent is required has, pursuant to the requirements of regulation 12(12), granted, or joined in granting, to the operator any rights in relation to the land; and
  - (c) those rights, or those rights together with other rights, are such as will enable the operator to comply with any requirements imposed on him by the off-site condition.
- (2) In this Schedule—
- “grantor” means a person mentioned in sub-paragraph (1)(b);
- “relevant interest” means an interest in land out of which rights have been granted pursuant to the requirements of regulation 12(12).
2. In a case where this Schedule applies, any person who has granted, or joined in granting, the rights in question shall be entitled to be paid compensation under this Schedule by the operator.
3. Subject to paragraph 6(3) and (5)(b), compensation shall be payable under this Schedule 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 he would have been entitled to compensation by way of compensation for disturbance if that interest had been acquired compulsorily under the Acquisition of Land Act 1981(43) in pursuance of a notice to treat served on the date on which the rights were granted;
  - (d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest, and which 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.
- 4.—(1) Subject to sub-paragraph (2), an entitlement to compensation under this Schedule arises on the date of the grant of the rights.
- (2) Where, after a grant of rights pursuant to regulation 12(12), the conditions of the permit which rendered the grant of rights necessary are upheld on the final determination of an appeal against those conditions, the entitlement to compensation arises on the date of the final determination of the appeal.
- 5.—(1) An application for compensation under this Schedule shall be made by the grantor—

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(43) 1981 c. 67.

- (a) within 12 months from the date on which the entitlement to compensation arises in his case; or, as he may decide,
  - (b) within six months from the date on which the rights are first exercised.
- (2) An application shall be made in writing to the operator to whom the rights were granted and delivered at or sent by pre-paid post to the last known address for correspondence of that person.
- (3) The application shall contain, or be accompanied by—
- (a) a copy of the grant of rights in respect of which the grantor's entitlement arises, and of 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, distinguishing the amounts applied for under each of sub-paragraphs (a) to (e) of paragraph 3, and showing how the amount applied for under each sub-paragraph has been calculated, and
  - (d) where 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.

**6.—**(1) The amount to be paid by way of compensation under this Schedule shall be assessed in accordance with the following sub-paragraphs.

(2) The rules set out in section 5 of the Land Compensation Act 1961<sup>(44)</sup> (rules for assessing compensation) shall, so far as applicable and subject to any necessary modifications, 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.

(3) No account shall be taken of any enhancement of the value of any interest in land, by reason of any building erected, work done or improvement or alteration made on any land in which the grantor is, or was at the time of erection, doing or making, directly or indirectly concerned, if the Lands Tribunal is satisfied that the erection of the building, the doing of the work, the making of the improvement or the alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of any loss under paragraph 3(e) expenditure incurred in the preparation of plans or on other similar preparatory matters, shall 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 shall be assessed as if the interest were not subject to the mortgage, and
- (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage).

(6) Compensation under this Schedule shall include an amount equal to the grantor's reasonable valuation and legal expenses.

**7.—**(1) Compensation payable under this Schedule in respect of an interest which is subject to a mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall, in either case, be applied by him as if it were proceeds of sale.

(2) Amounts of compensation determined under this Schedule shall be payable—

- (a) where the operator and the grantor or mortgagee agree that a single payment is to be made on a specified date, on that date;

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<sup>(44)</sup> 1961 c. 33 (9 & 10 Eliz. 2).

- (b) where the operator and 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 Lands Tribunal or the court, as soon as reasonably practicable after the amount of the compensation has been finally determined.
- (3) Any question of the application of paragraph 6(3) or of disputed compensation shall be referred to and determined by the Lands Tribunal.
- (4) In relation to the determination of any such question, sections 2 and 4 of the Land Compensation Act 1961 (procedure on reference to the Lands Tribunal and costs) shall apply as if—
- (a) 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, and
  - (b) references in section 4 of that Act to the acquiring authority were references to the operator.
- 8.—(1)** Compensation payable under this Schedule shall carry interest at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961<sup>(45)</sup> from the date specified in sub-paragraph (2) until payment.
- (2) The date specified in this sub-paragraph is—
- (a) in the case of compensation payable by virtue of paragraph 3(a) or (b), the date of depreciation;
  - (b) in the case of compensation payable by virtue of paragraph 3(c), (d) or (e), the date on which the loss is sustained or the damage done or, where injurious affection is sustained, the date of the injurious affection;
  - (c) in the case of compensation payable by virtue of paragraph 6(6), the date on which the expenses become payable.
- (3) If it appears to any person that he may become liable to pay to another compensation under this Schedule or interest under this paragraph he may, if the other person requests him in writing to do so, make one or more payments on account of such compensation or interest.
- (4) If, after a payment has been made by any person under sub-paragraph (3)—
- (a) it is agreed or determined that he is not liable to pay compensation or interest; or
  - (b) by reason of any agreement or determination, any payment under that sub-paragraph is shown to be excessive,
- the payment or, as the case may be, excess shall be recoverable by that person.

## SCHEDULE 7

Regulation 17

### VARIATION OF CONDITIONS

#### PART 1:

#### APPLICATIONS FOR VARIATION OF CONDITIONS

- 1.** An application under regulation 17(2) for the variation of the conditions of a permit shall be in writing and shall contain the following information—

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<sup>(45)</sup> See S.I. 1994/468.

- (a) the name of the operator, his telephone number and address (including post code) and, if different, the address to which correspondence relating to the application should be sent;
- (b) in the case of a permit to operate an installation or Part A mobile plant, the address of the site of the installation or mobile plant to which the permit applies;
- (c) if appropriate, a description of the proposed change in the operation of the installation or mobile plant requiring the variation and a statement of any changes as respects the matters dealt with in paragraph 1(1)(f) to (k) of Schedule 4 which would result if the proposed change were made;
- (d) in the case of a variation required by a proposed substantial change in the operation of a Part A installation, any relevant information obtained or conclusion arrived at in relation to the proposed change pursuant to articles 5, 6 and 7 of Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment<sup>(46)</sup>;
- (e) an indication of the variations to the conditions of the permit which the operator wishes the regulator to make;
- (f) any additional information which the operator wishes the regulator to take into account in considering his application.

2. If a proposed change in the operation of a Part A installation or Part A mobile plant will result in additional land being included within the site of the installation or mobile plant, the application shall also contain a site report for that additional land describing the condition of the land, in particular, identifying any substance in, on or under the land which may constitute a pollution risk.

3. The regulator may, by notice to the operator, require him to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining the application and if the operator fails to furnish the specified information within the period specified the application shall, if the regulator gives notice to the operator that it treats the failure as such, be deemed to have been withdrawn at the end of that period.

## PART 2:

### DETERMINATION OF APPLICATIONS FOR VARIATIONS AND VARIATION NOTICES

- 4.—(1) Subject to sub-paragraphs (3) and (4), this paragraph applies where—
- (a) an application is made for the variation of the conditions of a permit under regulation 17(2) which will authorise a substantial change in the operation of an installation or mobile plant; or
  - (b) the regulator proposes to serve a variation notice under regulation 17(5) otherwise than for the purposes of determining an application mentioned in paragraph (a) and the variation will authorise a substantial change in the operation of an installation or mobile plant.
- (2) Subject to sub-paragraphs (3) and (4), this paragraph shall also apply where an application is made for the variation of the conditions of a permit under regulation 17(2) or the regulator proposes to serve a variation notice under regulation 17(5) and the regulator determines that in the particular circumstances the procedure set out in the following sub-paragraphs should be followed even though no substantial change is involved (so that paragraph (1) does not apply).
- (3) This paragraph shall not apply where the regulator proposes to serve a variation notice—

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<sup>(46)</sup> OJ No. L 175, 5.7.85, p. 40 (as amended by Council Directive [97/11/EC](#) (OJ No. L 73, 14.3.97, p. 5)).

- (a) which has been modified to take account of representations made in accordance with this paragraph in relation to the regulator's previous proposal to serve the notice without the modifications; or
  - (b) in order to comply with a direction given by the Secretary of State.
- (4) This paragraph shall not apply in relation to an application for the variation of the conditions of a permit or a proposed variation notice relating to an installation involving only the burning of waste oil (as defined in Section 1.1 of Part 1 of Schedule 1) in an appliance with a rated thermal input of less than 0.4 megawatts.
- (5) Where this paragraph applies the regulator shall—
- (a) notify the operator that the paragraph applies by virtue of sub-paragraph (1) or a determination under sub-paragraph (2), as the case may be, and of any fee prescribed in respect of the variation on the application of this paragraph under section 41 of the Environment Act 1995 or regulation 22;
  - (b) in the case of a proposed variation notice, serve a copy of the proposed notice on the operator;
  - (c) give notice of the application or proposed variation notice, enclosing a copy of it, to the persons to whom notice would have to be given in accordance with paragraph 9 of Schedule 4 in the case of an application for a permit to operate the installation or mobile plant.
- (6) In the case of an application to which this paragraph applies—
- (a) the regulator shall, subject to paragraph 15(a), comply with sub-paragraph (5) within 14 days of receiving the application;
  - (b) if the applicant does not pay to the regulator any fee notified under sub-paragraph (5)(a) within 28 days of the notification the application shall be deemed to have been withdrawn.
- (7) For the purpose of calculating the period of 14 days mentioned in sub-paragraph (6)(a) no account shall be taken of any period beginning with the date on which notice is served on an operator under paragraph 3 and ending on the date on which the operator furnishes the information specified in the notice.
- (8) Subject to paragraph 15(b), an operator notified under sub-paragraph (5)(a) shall, within 28 days beginning on the day on which the notification is made, advertise the application or proposed variation notice, as the case may be—
- (a) in the case of a variation affecting the operation of an installation or Part A mobile plant, in one or more newspapers circulating in the locality in which the installation or mobile plant is operated;
  - (b) in the case of a Part A installation or Part A mobile plant, in the London Gazette.
- (9) An advertisement required by sub-paragraph (8) shall—
- (a) state the name of the operator;
  - (b) in the case of a variation affecting the operation of an installation or Part A mobile plant, state the address of the site of the installation or mobile plant concerned;
  - (c) describe briefly the activities in Part 1 of Schedule 1 carried out in the installation or by means of the mobile plant and the change in the operation of the installation or mobile plant that will be authorised by the variation;
  - (d) state where any register which contains particulars of the application or proposed variation notice may be inspected and that it may be inspected free of charge;

- (e) explain that any person may make representations in writing to the regulator within the period of 28 days beginning with the date of the advertisement and give the regulator's address for receiving the representations;
  - (f) explain that any such representations made by any person will be entered in a public register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request.
- (10) Sub-paragraph (8) shall not apply in relation to an application for the variation of the conditions of a permit or a proposed variation notice relating to an installation which is only used to carry out an activity falling within paragraph (d) of Part B of Section 1.2 of Part 1 of Schedule 1 (unloading of petrol at service stations).
- (11) Any representations made by any person within the period allowed shall be considered by the regulator in determining the application or before serving the variation notice.
- (12) For the purpose of sub-paragraph (11), the period allowed for making representations is—
- (a) in the case of persons notified pursuant to sub-paragraph (5)(c), the period of 28 days beginning with the date on which notice of the application or proposed variation notice is given under that sub-paragraph;
  - (b) in the case of other persons, the period of 28 days beginning with the date on which the application or proposed variation notice is advertised pursuant to sub-paragraph (8).
- (13) Where this paragraph applies by virtue of sub-paragraph (1) to a variation affecting the operation of a Part A installation, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment in relation to the substantial change shall be taken into consideration by the regulator in determining the application or before serving the variation notice.
- 5.—**(1) If the regulator proposes to serve a variation notice which will result in the inclusion of an off-site condition in the permit concerned, it shall, before serving the variation notice, give a notice which complies with sub-paragraph (3) to every person appearing to it to be a person falling within sub-paragraph (2).
- (2) A person falls within this sub-paragraph if—
    - (a) he is the owner, lessee or occupier of land; and
    - (b) that land is land in relation to which it is likely that, as a consequence of the off-site condition in question, rights will have to be granted by virtue of regulation 12(12) to the holder of the permit.
  - (3) A notice served under sub-paragraph (1) shall—
    - (a) set out the off-site condition in question;
    - (b) indicate the nature of the works or things which that condition might require the holder of the permit to carry out or do; and
    - (c) specify a period, not being less than 28 days beginning on the date on which the notice is served, in which representations may be made to the regulator relating to the condition or its possible effects and the manner in which any such representations are to be made.
  - (4) In sub-paragraph (2), “owner” means the person who—
    - (a) is for the time being receiving the rack-rent of the land, whether on his 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.

(5) Any representations made by a person notified under sub-paragraph (1) within the period of 28 days beginning with the date on which notice was given under that sub-paragraph shall be considered by the regulator before serving the variation notice.

6.—(1) The Secretary of State may give directions to the regulator requiring that any particular application under regulation 17(2) or any class of such applications shall be referred to him for determination pending a further direction under sub-paragraph (6).

(2) The regulator shall inform the operator of the fact that his application is being referred to the Secretary of State and forward to the Secretary of State any representations which have been made to the regulator within the period allowed.

(3) Where an application for the variation of the conditions of a permit is referred to him under sub-paragraph (1) the Secretary of State may afford the operator and the regulator an opportunity of appearing before and being heard by a person appointed by him and he shall do so in any case where a request is duly made by the operator or the regulator to be so heard.

(4) A request under sub-paragraph (3) shall be in writing and shall be made within the period of 21 days beginning with the day on which the operator is informed that his application is being transmitted to the Secretary of State.

(5) Paragraphs 4(2) to (10) of Schedule 8 shall apply to a hearing held under sub-paragraph (3) as they apply to a hearing held under paragraph 4(1) of that Schedule but with the following modifications—

- (a) with the substitution in sub-paragraph (3) for the reference to the appellant of a reference to the operator;
- (b) with the substitution in sub-paragraph (4)—
  - (i) for the reference to the appeal of a reference to the application; and
  - (ii) for the reference to every person mentioned in paragraph 3(1)(a) of Schedule 8 and every person mentioned in paragraph 3(1)(b) and (c) of that Schedule who has made representations in writing to the Secretary of State of a reference to every person who was required to be notified under paragraph 4(5)(c) of this Schedule and to any person who made representations to the regulator with respect to the subject matter of the application;
- (c) with the substitution in sub-paragraph (7)—
  - (i) for the reference in sub-paragraph (7)(a) to the appellant of a reference to the operator;
  - (ii) for the reference in sub-paragraph (7)(c) to any person required under paragraph 3(1)(a) of Schedule 8 to be notified of the appeal of a reference to any person required under paragraph 4(5)(c) of this Schedule to be notified of the application.

(6) The Secretary of State shall, on determining any application referred to him under this paragraph, give to the regulator such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the permit by means of the variation notice.

7.—(1) Except in a case where an application has been referred to the Secretary of State under paragraph 6 and subject to paragraph 10, the regulator shall give notice of its determination of an application under regulation 17(2)—

- (a) where the consultation and advertising procedure set out in paragraph 4 applies, within the period of four months beginning with the day on which the regulator received the application;

(b) where that procedure does not apply, within the period of three months beginning with the day on which the regulator received the application,

or, in either case, within such longer period as may be agreed with the operator.

(2) For the purpose of calculating the periods mentioned in sub-paragraphs (1)(a) and (b) no account shall be taken of—

- (a) any period beginning with the date on which notice is served on an operator under paragraph 3 and ending on the date on which the operator furnishes the information specified in the notice;
- (b) any period allowed for making representations in relation to a notice given pursuant to paragraph 5 in so far as that period does not overlap with any other period allowed for making representations in accordance with paragraph 4(12);
- (c) where a matter falls to be determined under regulation 30 or 31, any period beginning with the date on which the period of 28 days referred to in paragraph 4(8) ends and ending on the date on which the application is advertised in accordance with paragraph 15(b).

**8.** If the regulator fails to give notice of its determination of an application for a permit within the period allowed by or under paragraph 7, the application shall, if the operator notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

**9.** Where the Secretary of State is aware that an application or proposal to serve a variation notice mentioned in paragraph 4(1) relates to a substantial change in the operation of an installation carrying out activities listed in Annex I to the Directive in England and Wales which is likely to have significant negative effects on the environment of another member State, or where another member State likely to be significantly affected so requests, the Secretary of State shall forward a copy of the application or proposed variation notice to the other member State at the same time as it is advertised pursuant to paragraph 4(8) (or as soon as he becomes so aware or receives such a request, if he becomes so aware or receives such a request after the application or proposed variation notice is published but before the application is determined or the variation notice is served) in order that the application or proposed variation notice may serve as the basis for any consultations necessary in the framework of the bilateral relations between the United Kingdom and the other member State on a reciprocal and equivalent basis, as referred to in Article 17 of the Directive.

**10.** Where an application or proposal to serve a variation notice is forwarded to another member State pursuant to paragraph 9 the Secretary of State shall notify the operator of the installation concerned and the regulator and—

- (a) the regulator shall not determine the application (where the application has not been referred to the Secretary of State under paragraph 6) or serve the variation notice until the Secretary of State has notified it in writing that the bilateral consultations required by paragraph 9 have been completed and has forwarded to it any representations duly made on the application or proposed variation by persons in the other member State which have been forwarded to the Secretary of State; and,
- (b) in the case of an application to be determined by the regulator, the period of four months within which to determine the application set out in paragraph 7(1)(a) shall begin on the day on which the regulator receives the Secretary of State's notification that the bilateral consultations have been completed.

**11.** In determining an application or before serving a variation notice which has been forwarded to another member State pursuant to paragraph 9, the regulator, or, in the case of an application, the Secretary of State if the application has been referred to him, shall take into consideration any representations duly made in the other member State which have been forwarded to the Secretary of State.

12. In paragraphs 9 to 11, “member State” shall be taken to include Norway, Iceland and Liechtenstein.

## PART 3:

### NATIONAL SECURITY AND CONFIDENTIAL INFORMATION

13. The requirements of paragraph 4(8) of this Schedule shall not apply in so far as they would require the advertisement of information mentioned in paragraph 4(9) which is not to be included in the register by virtue of regulation 30 or 31.

14. Paragraphs 21 and 22 of Schedule 4 shall apply in relation to the requirement to give notice under paragraph 4(5)(c) of this Schedule as they apply to the requirement to give notice under paragraph 9 of that Schedule.

15. Where a matter falls to be determined under regulation 30 or 31—

- (a) the period for notification under paragraph 4(5)(c) of this Schedule shall be the period of 14 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of;
- (b) the period within which an advertisement is to be published under paragraph 4(8) shall be 28 days beginning 14 days after the day on which the matters to be determined under those regulations are finally disposed of.

16. Paragraph 24 of Schedule 4 shall apply for the purpose of paragraph 15 as it applies for the purpose of paragraph 23 of that Schedule.

## SCHEDULE 8

Regulation 27

### APPEALS TO THE SECRETARY OF STATE

1.—(1) A person who wishes to appeal to the Secretary of State under regulation 27 shall give to the Secretary of State written notice of the appeal together with the documents specified in sub-paragraph (2) and shall at the same time send to the regulator a copy of that notice together with copies of the documents specified in sub-paragraph (2)(a) and (f).

(2) The documents mentioned in sub-paragraph (1) are—

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant 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 disposed of on the basis of written representations.

(3) An appellant may withdraw an appeal by notifying the Secretary of State in writing and shall send a copy of that notification to the regulator.

2.—(1) Subject to sub-paragraph (2), notice of appeal in accordance with paragraph 1 is to be given—

- (a) in the case of an appeal under regulation 27(1), before the expiry of the period of six months beginning with the date of the decision or deemed decision which is the subject matter of the appeal;
  - (b) in the case of an appeal under regulation 27(2) against a revocation notice, before the date on which the revocation takes effect;
  - (c) in the case of an appeal under regulation 27(2) against a variation notice, an enforcement notice or a suspension notice, before the expiry of the period of two months beginning with the date of the notice which is the subject matter of the appeal.
- (2) The Secretary of State may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in sub-paragraph (1)(a) or (c).

**3.—(1)** Subject to sub-paragraph (4), the regulator shall, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of it to—

- (a) any person who was required to be given notice of the subject matter of the appeal under paragraph 9 of Schedule 4 or paragraph 4(5) of Schedule 7;
  - (b) any person who made representations to the regulator with respect to the subject matter of the appeal; and
  - (c) any person who appears to the regulator to have a particular interest in the subject matter of the appeal.
- (2) A notice under sub-paragraph (1) shall—
- (a) state that notice of appeal has been given;
  - (b) state the name of the appellant and, where the appeal concerns an installation or Part A mobile plant, the address of the site of that installation or mobile plant;
  - (c) describe the application or permit to which the appeal relates;
  - (d) state that representations with respect to the appeal may be made to the Secretary of State in writing by any recipient of the notice within a period of 21 days beginning with the date of the notice and that copies of any representations so made will be furnished to the appellant and to the regulator;
  - (e) explain that any such representations made by any person will be entered in a public register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request;
  - (f) state that if a hearing is to be held wholly or partly in public, a person mentioned in sub-paragraph (1)(b) or (c) who makes representations with respect to the appeal and any person mentioned in sub-paragraph (1)(a) will be notified of the date of the hearing.

(3) The regulator shall, within 14 days of sending a notice under sub-paragraph (1), notify the Secretary of State of the persons to whom and the date on which the notice was sent.

(4) In the event of an appeal being withdrawn, the regulator shall give notice of the withdrawal to every person to whom notice was given under sub-paragraph (1).

**4.—(1)** Before determining an appeal under regulation 27, the Secretary of State may afford the appellant and the regulator an opportunity of appearing before and being heard by a person appointed by him (the “appointed person”) and he shall do so in any case where a request is duly made by the appellant or the regulator to be so heard.

(2) A hearing held under sub-paragraph (1) may, if the appointed person so decides, be held wholly or held to any extent, in private.

(3) Where the Secretary of State causes a hearing to be held under sub-paragraph (1) he shall give the appellant and the regulator at least 28 days notice (or such shorter period of notice as they may agree) of the date, time and place fixed for the holding of the hearing.

(4) In the case of a hearing which is to be held wholly or partly in public, the Secretary of State shall, at least 21 days before the date fixed for the holding of the hearing—

- (a) where the appeal relates to the operation of an installation or Part A mobile plant, publish a copy of the notice mentioned in sub-paragraph (3) in a newspaper circulating in the locality in which the installation or mobile plant is operated;
- (b) serve a copy of that notice on every person mentioned in paragraph 3(1)(a) and on every person mentioned in paragraphs 3(1)(b) and (c) who has made representations in writing to the Secretary of State.

(5) The Secretary of State may vary the date fixed for the holding of any hearing and sub-paragraphs (3) and (4) shall apply to the variation of a date as they applied to the date originally fixed.

(6) The Secretary of State may also vary the time or place for the holding of a hearing and shall give such notice of any such variation as appears to him to be reasonable.

(7) The persons entitled to be heard at a hearing are—

- (a) the appellant;
- (b) the regulator; and
- (c) any person required by paragraph 3(1)(a) to be notified of the appeal.

(8) Nothing in sub-paragraph (7) shall prevent the appointed person from permitting any other persons to be heard at the hearing and such permission shall not be unreasonably withheld.

(9) After the conclusion of a hearing, the appointed person shall make a report in writing to the Secretary of State which shall include his conclusions and his recommendations or his reasons for not making any recommendation.

(10) Subsections (2) to (5) of section 250 of the Local Government Act 1972<sup>(47)</sup> (local inquiries: evidence and costs) shall 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, but with the following modifications, that is to say—

- (a) with the substitution in subsection (2) (evidence) for the reference to the person appointed to hold the inquiry of a reference to the appointed person;
- (b) with the substitution in subsection (4) (recovery of costs of holding the inquiry) for the references to the Minister causing the inquiry to be held of references to the Secretary of State;
- (c) with the substitution of the reference in that subsection to a local authority with a reference to the regulator;
- (d) with the substitution in subsection (5) (orders as to the costs of the parties) for the reference to the Minister causing the inquiry to be held with a reference to the Secretary of State.

**5.—**(1) Where the appeal is to be disposed of on the basis of written representations, the regulator shall submit any written representations to the Secretary of State not later than 28 days after receiving a copy of the documents mentioned in paragraph 1(2)(a) and (f).

(2) The appellant shall make any further representations by way of reply to any representations from the regulator not later than 17 days after the date of submission of those representations by the regulator.

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<sup>(47)</sup> 1972 c. 70; section 250 has been amended by the Statute Law (Repeals) Act 1989 (c. 43) and the Housing and Planning Act 1986 (c. 63), Schedule 12.

(3) Any representations made by the appellant or the regulator shall bear the date on which they are submitted to the Secretary of State.

(4) When the regulator or the appellant submits any representations to the Secretary of State they shall at the same time send a copy of them to the other party.

(5) The Secretary of State shall send to the appellant and the regulator a copy of any representations made to him by the persons mentioned in paragraph 3(1) and shall allow the appellant and the regulator a period of not less than 14 days in which to make representations on them.

(6) The Secretary of State may in a particular case—

- (a) set later time limits than those mentioned in this paragraph;
- (b) require exchanges of representations between the parties in addition to those mentioned in paragraphs (1) and (2).

6.—(1) The Secretary of State shall give notice to the appellant of his determination of the appeal and shall provide him with a copy of any report mentioned in paragraph 4(9).

(2) The Secretary of State shall at the same time send—

- (a) a copy of the documents mentioned in sub-paragraph (1) to the regulator and to any persons required under paragraph 3(1)(a) to be notified of the appeal; and
- (b) a copy of his determination of the appeal to any person mentioned in paragraph 3(1)(b) and (c) who made representations to the Secretary of State and, if a hearing was held, to any other person who made representations in relation to the appeal at the hearing.

7. Where a determination of the Secretary of State on an appeal is quashed in proceedings before any court, the Secretary of State—

- (a) shall send to the persons notified of his determination under paragraph 6 a statement of the matters with respect to which further representations are invited for the purposes of his further considerations of the appeal;
- (b) shall afford to those persons the opportunity of making, within 28 days of the date of the statement, written representations in respect of those matters; and
- (c) may, as he thinks fit, cause a hearing to be held or reopened and, if he does so, paragraphs 4(2) to (10) shall apply to the hearing or the reopened hearing as they apply to a hearing held under paragraph 4(1),

and paragraph 6 shall apply to the re-determination of the appeal as it applies to the determination of an appeal.

## SCHEDULE 9

Regulation 29

### REGISTERS

1. A register maintained by a regulator under regulation 29 shall contain—

- (a) all particulars of any application made to the regulator for a permit;
- (b) all particulars of any notice to the applicant by the regulator under paragraph 4 of Schedule 4 and paragraph 3 of Schedule 7 and of any information furnished in response to such a notice;
- (c) all particulars of any advertisement published pursuant to paragraph 5 of Schedule 4 or paragraph 4(8) of Schedule 7 and of any representations made by any person in response to such an advertisement, other than representations which the person who made them requested should not be placed in the register;

- (d) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by the regulator that representations have been made which have been the subject of such a request (but such statement shall not identify the person who made the representations in question);
- (e) all particulars of any representations made by any person required to be given notice under paragraph 9 of Schedule 4 or paragraph 4(5)(c) of Schedule 7;
- (f) all particulars of any permit granted by the regulator;
- (g) all particulars of any notification of the regulator given under regulation 16(1);
- (h) all particulars of any application made to the regulator for the variation, transfer or surrender of a permit;
- (i) all particulars of any variation, transfer and surrender of any permit granted by the regulator;
- (j) all particulars of any revocation of a permit granted by the regulator;
- (k) all particulars of any enforcement notice or suspension notice issued by the regulator;
- (l) all particulars of any notice issued by the regulator withdrawing an enforcement notice or a suspension notice;
- (m) all particulars of any notice of appeal under regulation 27 against a decision by the regulator or a notice served by the regulator and of the documents relating to the appeal mentioned in paragraph 1(2)(a), (d) and (e) of Schedule 8;
- (n) all particulars of any representations made by any person in response to a notice given under paragraph 3(1) of Schedule 8, other than representations which the person who made them requested should not be placed in the register;
- (o) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by the regulator that representations have been made which have been the subject of such a request (but such statement shall not identify the person who made the representations in question);
- (p) all particulars of any written notification of the Secretary of State's determination of such an appeal and any report accompanying any such written notification;
- (q) details of any conviction of or formal caution given to any person for any offence under regulation 32(1) which relates to the operation of an installation or mobile plant under a permit granted by the regulator, or without such a permit in circumstances where one is required by regulation 9, including the name of the person, the date of conviction or formal caution, and, in the case of a conviction, the penalty imposed and the name of the Court;
- (r) all particulars of any monitoring information relating to the operation of an installation or mobile plant under a permit granted by the regulator which has been obtained by the regulator as a result of its own monitoring or furnished to the regulator in writing by virtue of a condition of the permit or under regulation 28(2);
- (s) in a case where any such monitoring information is omitted from the register by virtue of regulation 31, a statement by the regulator, based on the monitoring information from time to time obtained by or furnished to them, indicating whether or not there has been compliance with any relevant condition of the permit;
- (t) all particulars of any other information furnished to the authority in compliance with a condition of the permit, a variation notice, enforcement notice or suspension notice, or regulation 28(2);
- (u) where a permit granted by the regulator authorises the carrying out a specified waste management activity, all particulars of any waste management licence (within the meaning of regulation 19(13)) which ceased to have effect on the granting of the permit in so far

as they may be relevant for the purpose of determining under regulation 19 whether any pollution risk results from the carrying out of such an activity on the site covered by the permit;

- (v) all particulars of any report published by a regulator relating to an assessment of the environmental consequences of the operation of an installation in the locality of premises where the installation is operated under a permit granted by the regulator; and
- (w) all particulars of any direction (other than a direction under regulation 30(2)) given to the regulator by the Secretary of State under any provision of these Regulations.

2. Where an application is withdrawn by the applicant at any time before it is determined, all particulars relating to that application which are already in the register shall be removed from the register not less than two months and not more than three months after the date of withdrawal of the application, and no further particulars relating to that application shall be entered in the register.

3. Where, following the amendment of Schedule 1, these Regulations cease to apply to a description of installation or mobile plant, all particulars relating to installations or mobile plant of that description shall be removed from the register not less than two months and not more than three months after the date on which the amendment comes into force.

4. Nothing in paragraph 1 shall require a regulator to keep in a register maintained by it—
- (a) monitoring information relating to a particular installation or a mobile plant four years after that information was entered in the register; or
  - (b) information relating to a particular installation or mobile plant which has been superseded by later information relating to that installation or mobile plant four years after that later information was entered in the register,

but this paragraph shall not apply to any aggregated monitoring data relating to overall emissions of any substance or class of substance from installations or mobile plant generally or from any class of installations or mobile plant.

5. Any details of a formal caution included in a register pursuant to paragraph 1(q) shall be removed from the register after five years have elapsed since the date on which the caution was given.

## SCHEDULE 10

Regulation 39

### CONSEQUENTIAL AMENDMENTS

#### PART 1:

#### PUBLIC GENERAL ACTS

##### *Income and Corporation Taxes Act 1988*

1. In section 91A(6) of the Income and Corporation Taxes Act 1988 (waste disposal: restoration payments)(48), after paragraph (b) insert—

“(ba) a permit under regulations under section 2 of the Pollution Prevention and Control Act 1999, or”.

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(48) 1988 c. 1; section 91A was inserted by section 78 of the Finance Act 1990 (c. 29) and amended by section 110 of the Finance Act 1993 (c. 34).

*Environmental Protection Act 1990*

2. The Environmental Protection Act 1990(49) has effect subject to the following amendments.
3. In section 6 (authorisations: general provisions)—
  - (a) at the beginning of subsection (6) insert “Subject to subsection (6A) below”;
  - (b) after subsection (6) insert—
 

“(6A) Subsection (6) above shall not require a review of the conditions of an authorisation to be carried out if—

    - (a) the prescribed process covered by the authorisation is carried on in a new Part A installation or by means of a new Part A mobile plant;
    - (b) the prescribed process covered by the authorisation is carried on in an existing Part A installation or by means of an existing Part A mobile plant and the review would be carried out within the period of two years ending at the beginning of the relevant period for that installation or mobile plant; or
    - (c) the prescribed process covered by the authorisation is carried on in an existing Part B installation or by means of an existing Part B mobile plant and the review would be carried out within the period of two years ending on the relevant date for that installation or mobile plant.

(6B) In subsection (6A) above, “new Part A installation”, “existing Part A installation”, “new Part A mobile plant”, “existing Part A mobile plant”, “relevant period”, “existing Part B installation”, “existing Part B mobile plant” and “relevant date” have the meaning given in Schedule 3 to the Pollution Prevention and Control (England and Wales) Regulations 2000.”
4. In section 34(1) (duty of care as respects waste)—
  - (a) after paragraph (a) insert—
 

“(aa) to prevent any contravention by any other person of regulation 9 of the Pollution Prevention and Control (England and Wales) Regulations 2000 or of a condition of a permit granted under regulation 10 of those Regulations;”;
  - (b) in paragraph (c)(ii), after “that section” insert “or any condition of a permit granted under regulation 10 of those Regulations”.
5. In section 35 (waste management licences : general)—
  - (a) in subsection (11) after “until” insert “it ceases to have effect under subsection (11A) below,”;
  - (b) after subsection (11) insert—
 

“(11A) A licence shall cease to have effect if and to the extent that the treatment, keeping or disposal of waste authorised by the licence is authorised by a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999.”
6. In section 78YB (interaction of contaminated land provisions with other enactments(50) after subsection (2) insert—
 

“(2A) This Part shall not apply if and to the extent that—

  - (a) any significant harm, or pollution of controlled waters, by reason of which the land would otherwise fall to be regarded as contaminated, is attributable to the final disposal by deposit in or on land of controlled waste, and

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(49) 1990 c. 43.

(50) Section 78YB was inserted by section 57 of the Environment Act 1995 (c. 25).

(b) enforcement action may be taken in relation to that disposal.

(2B) A remediation notice shall not be served in respect of contaminated land if and to the extent that—

(a) the significant harm, or pollution of controlled waters, by reason of which the contaminated land is such land is attributable to an activity other than the final disposal by deposit in or on land of controlled waste, and

(b) enforcement action may be taken in relation to that activity.

(2C) In subsections (2A) and (2B) above—

“controlled waste” has the meaning given in section 75(4) of this Act; and

“enforcement action” means action under regulation 24 (enforcement notices) or regulation 26(2) (power of regulator to remedy pollution) of the Pollution Prevention and Control (England and Wales) Regulations 2000.”

7. In section 79(10) (restrictions on taking proceedings for statutory nuisance)(51), for the words “or (e)” substitute “,(e) or (g)” and for “paragraph (g) or (ga)” substitute “paragraph (ga)”.

#### *Water Industry Act 1991*

8. In section 138 of the Water Industry Act 1991 (meaning of “special category effluent”)(52)—

(a) in subsection (1), for “subsection” substitute “subsections (1A) and”;

(b) after subsection (1) insert—

“(1A) If trade effluent is produced, or to be produced, by operating any installation or plant or otherwise carrying on any activity, the operation or carrying on of which requires a permit, that effluent shall not be special category effluent for the purposes of this Chapter as from the determination date relating to the installation, plant or activity in question.

(1B) In subsection (1A)—

(a) “determination date”, in relation to an installation, plant or activity, means—

(i) in the case of an installation, plant or activity in relation to which a permit is granted, the date on which it is granted, whether in pursuance of the application, or on an appeal, of a direction to grant it;

(ii) in the case of an installation, plant or activity in relation to which the grant of a permit is refused, the date of refusal or, on appeal, of the affirmation of the refusal,

and in this paragraph the references to an appeal are references to an appeal under regulations under section 2 of the Pollution Prevention and Control Act 1999;

(b) “permit” means a permit granted, under regulations under that section, by an authority exercising functions under the regulations that are exercisable for the purpose of preventing or reducing emissions into the air, water and land.”;

(c) in subsection (4), for “In this section” substitute “In subsection (2) and (3) above”.

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(51) Section 79(10) was amended by paragraph 2(d) of Schedule 17 to the Environment Act 1995 and paragraph 6 of Schedule 2 to the Pollution Prevention and Control Act 1999.

(52) 1991 c. 56.

### *Water Resources Act 1991*

**9.** In section 88(1) of the Water Resources Act 1991 (defence to principal offences in respect of authorised discharges)**(53)**, after paragraph (a) insert—

- “(aa) a permit granted, under regulations under section 2 of the Pollution Prevention and Control Act 1999, by an authority exercising functions under the regulations that are exercisable for the purpose of preventing or reducing emissions in to the air, water and land;”.

### *Clean Air Act 1993*

**10.** The Clean Air Act 1993**(54)** has effect subject to the following amendments.

**11.** In section 31 (regulations about sulphur content of oil fuel for furnaces or engines), in subsection (4)—

- (a) in paragraph (a), after “which is” insert “(i)” and after “1990” insert  
“, or  
(ii) part of an installation subject to regulation by the Environment Agency under regulations made under section 2 of the Pollution Prevention and Control Act 1999”; and
- (b) in subsection (4)(b), for “such furnaces” substitute “furnaces within sub-paragraph (i) of paragraph (a) above and of the Environment Agency to enforce those provisions in relation to furnaces within sub-paragraph (ii) of that paragraph”.

**12.** In section 36 (notices requiring information about air pollution), after subsection (2) insert—

“(2A) If the notice relates to an installation subject to regulation by the Environment Agency under regulations made under section 2 of the Pollution Prevention and Control Act 1999, the person on whom the notice is served shall not be obliged to supply any information which, as certified by the Environment Agency, is not of a kind which is being supplied to the Environment Agency for the purposes of those regulations.”

**13.** After section 41 (relation to the Environment Protection Act 1990) insert—

**“Relation to the Pollution Prevention and Control Act 1999.**

**41A.—**(1) Where an activity is subject to regulations under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities), Parts I to III of this Act shall not apply as from the determination date for the activity in question.

(2) The “determination date”, for an activity, is—

- (a) in the case of an activity for which a permit is granted, the date on which it is granted, whether in pursuance of the application, or on an appeal, of a direction to grant it;
- (b) in the case of an activity for which a permit is refused, the date of refusal or, on appeal, of the affirmation of the refusal.

(3) In subsection (2) “permit” means a permit under regulations under section 2 of the Pollution Prevention and Control Act 1999 and the reference to an appeal is a reference to an appeal under those regulations.”

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**(53)** 1991 c. 57.

**(54)** 1993 c. 11.

### *Environment Act 1995*

14. The Environment Act 1995(55) has effect subject to the following amendments.

15. In section 56(1) (interpretation of Part I of the 1995 Act), after paragraph (a) of the definition of “environmental licence” in relation to the Environment Agency insert—

“(aa) a permit granted by the Agency under regulations under section 2 of the Pollution Prevention and Control Act 1999;”.

16. In section 108(15) (powers of entry—interpretation)—

(a) in the definition of “local enforcing authority”, after paragraph (c) insert—

“(d) a local authority for the purposes of regulations under section 2 of the Pollution Prevention and Control Act 1999 extending to England and Wales;”;

(b) in the definition of “pollution control functions” in relation to the Environment Agency, after paragraph (m) insert—

“and, in relation to the Agency, includes the functions conferred or imposed on, or transferred to, it under section 2 of the Pollution Prevention and Control Act 1999;”;

(c) in the definition of “pollution control functions” in relation to a local enforcing authority, after paragraph (c) insert—

“and, in relation to an authority in England or Wales, includes the functions conferred or imposed on, or transferred to, that authority under section 2 of the Pollution Prevention and Control Act 1999;”.

17. In section 113(5) (definitions relating to disclosure of information), after paragraph (a) of the definitions of “local enforcing authority” insert—

“(aa) in relation to England and Wales, any local authority within the meaning of regulations under section 2 of the Pollution Prevention and Control Act 1999;”.

18. In section 114(2)(a) (power of Secretary of State to delegate functions relating to appeals), after sub-paragraph (vii) insert—

“(viii) regulations under section 2 of the Pollution Prevention and Control Act 1999 extending to England and Wales;”.

19. In Schedule 20, in paragraph 4(3) (holding of local inquiries and other hearings by appointed persons)—

(a) omit “or” at the end of paragraph (b);

(b) after paragraph (c) insert—

“or

(d) regulation 31(6) of the Pollution Prevention and Control (England and Wales) Regulations 2000;”.

### *Finance Act 1996*

20. The Finance Act 1996(56) has effect subject to the following amendments.

21. In section 43A(57) (contaminated land)—

(a) omit “or” at the end of paragraph (f);

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(55) 1995 c. 25.

(56) 1996 c. 8.

(57) Section 43A was inserted by article 3 of the Landfill Tax (Contaminated Land) Order 1996 (S.I. 1996/1529).

(b) after paragraph (g) insert—

“(h) an enforcement notice served under regulation 24 of the Pollution Prevention and Control (England and Wales) Regulations 2000;

(j) a suspension notice served under regulation 25 of those Regulations; or

(k) an order under regulation 35 of those Regulations.”

22. In section 67 (operator of landfill sites), after paragraph (b) insert—

“(ba) the person who is at the time concerned the holder of the permit, where section 66(ba) above applies;”.

## PART 2:

### SUBORDINATE LEGISLATION

#### *The Radioactive Substances (Hospitals) Exemption Order 1990*

23. In the definition of “site licence” in article 2(1) of the Radioactive Substances (Hospitals) Exemption Order 1990(**58**), after “1990” insert— “or a permit under the Pollution Prevention and Control (England and Wales) Regulations 2000”.

#### *The Environmental Protection (Prescribed Processes and Substances) Regulations 1991*

24. After regulation 3 of the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(**59**) insert—

#### **“Exclusion of prescribed processes under control of the Pollution Prevention and Control (England and Wales) Regulations 2000**

3A.—(1) Where a process which is being carried on under an authorisation requires a permit under the Pollution Prevention and Control (England and Wales) Regulations 2000 authorising the carrying on of that process in an installation or by means of mobile plant and an application is made (or deemed to have been made) under those Regulations for the permit, that process shall, from the determination date for the installation or mobile plant, as the case may be, no longer be taken to fall within a description in Schedule 1.

(2) Where a process which is not being carried on under an authorisation requires a permit under those Regulations authorising the carrying on of that process in an installation or by means of mobile plant, that process shall not be taken to fall within a description in Schedule 1 from the date on which the permit is required.

(3) In this regulation, “installation” and “mobile plant” have the meaning given in regulation 2(1) of the Pollution Prevention and Control (England and Wales) Regulations 2000 and “determination date” has the meaning given in Schedule 3 to those Regulations.”

#### *The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991*

25. At the end of Schedule 1 to the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(**60**) insert “the Pollution Prevention and Control (England and Wales) Regulations 2000.”

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(58) S.I. [1990/2512](#).

(59) S.I. [1991/472](#); to which there are amendments not relevant to these Regulations.

(60) S.I. [1991/1624](#); Schedule 1 was amended by S.I. [1994/1137](#) and S.I. [1996/972](#).

### *The Environmental Protection (Duty of Care) Regulations 1991*

**26.** In the Table in regulation 2 of the Environmental Protection (Duty of Care) Regulations 1991(**61**), after the second entry in column 1 insert— “A person who is the holder of a permit under the Pollution Prevention and Control (England and Wales) Regulations 2000 which authorises the carrying out of a specified waste management activity within the meaning of those Regulations.”

### *The Waste Management Licensing Regulations 1994*

**27.** The Waste Management Licensing Regulations 1994(**62**) have effect subject to the following amendments.

**28.** In regulation 1 (interpretation etc), after the definition of “the 1991 Regulations” in paragraph (3) insert—

““the 2000 Regulations” means the Pollution Prevention and Control (England and Wales) Regulations 2000;”.

**29.** At the end of regulation 3 (relevant offences) insert—

“(o) regulation 30(1) of the 2000 Regulations.”

**30.** In regulation 10 (public registers)—

(a) after paragraph (3) insert—

“(3A) A register maintained under section 64(4) of the 1990 Act by a waste collection authority in England and Wales shall also contain full particulars of the following information contained in any register maintained by the Environment Agency under regulation 29 of the 2000 Regulations to the extent that it relates to a specified waste management activity (within the meaning of those Regulations) carried out in the area of the authority—

- (a) current or recently current permits granted under the 2000 Regulations;
- (b) variation notices under regulation 17 of the 2000 Regulations varying such permits;
- (c) revocation notices under regulation 21 of those Regulations and suspension notices under regulation 25 of those Regulations issued in relation to such permits;
- (d) notices of determination issued under regulation 19 of those Regulations in relation to applications made to surrender such permits.”;

(b) in paragraph (4), after “waste management licences” where it first occurs insert “and permits granted under the 2000 Regulations”;

(c) after paragraph (4) insert—

“(5) The Environment Agency shall furnish waste collection authorities with the particulars necessary to enable them to discharge their duty under paragraph (3A).”

**31.** In regulation 11 (information to be excluded or removed from register), after paragraph (2) insert—

“(3) Nothing in regulation 10(3A) shall require a register maintained by a waste collection authority under that regulation to contain any information which has been superseded by later information after 4 years have elapsed from that later information being entered in the register.”

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**(61)** S.I. [1991/2839](#); to which there are amendments not relevant to these Regulations.

**(62)** S.I. [1994/1056](#); a relevant amending instrument is S.I. [1996/972](#).

- 32.** In regulation 16 (exclusion from waste management licensing)—
- (a) after paragraph (1)(b) insert—
    - “(ba) the deposit in or on land, recovery or disposal of waste under a permit granted under the 2000 Regulations to operate a Part A(1) installation;
    - (bb) the disposal of waste under a permit granted under the 2000 Regulations where the activity is or forms part of an activity within paragraph (a) or (b) of Part B of Section 5.1 (incineration) of Part 1 of Schedule 1 to those Regulations in so far as the activity results in the release of substances into the air;”;
  - (b) for “and (b)” in paragraph (2) substitute “, (b) and (bb)”;
  - (c) after paragraph (2) insert—
    - “(3) In paragraph (1)(ba) “Part A(1) installation” has the meaning given by regulation 2(1) of the 2000 Regulations.”
- 33.** In regulation 18(10) (registration in connection with exempt activities)—
- (a) in paragraph (a), after “Schedule 3” in sub-paragraph (i) insert— “and carried out under an authorisation granted under Part I of the 1990 Act”;
  - (b) after paragraph (a) insert—
    - “(aa) in the case of an exempt activity falling within—
      - (i) paragraph 1A, 2A, 3 or 24 of Schedule 3 and carried out under a permit under the 2000 Regulations;
      - (ii) paragraph 4 of Schedule 3 if it involves the coating or spraying of metal containers as or as part of an activity within Part B of Section 6.4 (coating activities and printing) of Part 1 of Schedule 1 to the 2000 Regulations and the activity is for the time being the subject of a permit granted under those Regulations, or if it involves storage related to that activity; or
      - (iii) paragraph 12 of Schedule 3 if it involves the composting of biodegradable waste as or as part of an activity within paragraph (a) of Part B of Section 6.8 (treatment of animal and vegetable matter) of Part 1 of Schedule 1 to the 2000 Regulations, the compost is to be used for the purpose of cultivating mushrooms and the activity is for the time being the subject of a permit granted under those Regulations, or if it involves storage related to that activity,
 the local authority regulator responsible for granting the permit under the 2000 Regulations authorising the exempt activity;”.
- 34.** In regulation 20(2) (registration of brokers), in paragraph (a), after “1990 Act” insert “a permit under the 2000 Regulations.”.
- 35.** In Schedule 3 (exempt activities)—
- (a) after paragraph 1 insert—
    - “**1A.**—(1) The use, under a permit under the 2000 Regulations, of waste glass as part of an activity within Part B of Section 3.3 (the manufacture of glass and glass fibre) of Part 1 of Schedule 1 to the 2000 Regulations if the total quantity of waste glass so used in that activity does not exceed 600,000 tonnes in any period of twelve months.
    - (2) The storage, at the place where the activity is carried out, of any such waste which is intended to be so used.”;
  - (b) after paragraph 2 insert—

**“2A.—(1)** The operation, under a permit under the 2000 Regulations, of a scrap metal furnace with a designed holding capacity of less than 25 tonnes to the extent that it is or forms part of an activity within paragraph (a), (b) or (d) of Part B of Section 2.1 (ferrous metals) or paragraph (a), (h) or (b) of Part B of Section 2.2 (non-ferrous metals) of Part 1 of Schedule 1 to the 2000 Regulations.

(2) The loading or unloading of such a furnace in connection with its operation in a manner covered by the exemption conferred by sub-paragraph (1).

(3) The storage, at the place where such a furnace is located (but not in cases where that place is used for carrying on business as a scrap metal dealer) of scrap metal intended to be submitted to an operation covered by the exemption conferred by sub-paragraph (1).”;

- (c) in paragraph 3(a), after “the 1990 Act” insert “or a permit under the 2000 Regulations” and after “1991 Regulations” insert “or an activity within Part B of any Section of Part 1 of Schedule 1 to the 2000 Regulations”;
- (d) in paragraph 3(d), after “1990 Act” insert “or a permit under the 2000 Regulations” and after “1991 Regulations” insert “or an activity within Part B of Section 1.1 of Part 1 of Schedule 1 to the 2000 Regulations”;
- (e) at the end of paragraph 24(1) insert— “or under a permit under the 2000 Regulations, to the extent that it is or forms part of an activity within paragraph (a) of Part B of Section 3.5 (other mineral activities) of Part 1 of Schedule 1 to the 2000 Regulations”;
- (f) at the end of paragraph 29(1) insert “or an exempt incineration plant for the purposes of Section 5.1 of Part 1 of Schedule 1 to the 2000 Regulations”;
- (h) at the end of paragraph 44(3) insert— “or an activity described in Section 2.1 (other than in paragraph (d) of Part B) of Part 1 of Schedule 1 to the 2000 Regulations”;
- (i) at the end of paragraph 44(4) insert— “or an activity described in Part A(1) or A(2) of Section 2.2 of Part 1 of Schedule 1 to the 2000 Regulations”;
- (j) at the end of paragraph 45(2)(a) insert “or a permit under the 2000 Regulations”.

**36.** In Schedule 4—

- (a) in paragraph 1, after “under Part I of the 1990 Act,” in the definition of “permit” insert— “a permit under the 2000 Regulations.”;
- (b) after paragraph 2(4) insert—
  - “(5) In a case where the recovery or disposal of waste is or forms part of an activity carried out at a Part B installation and requires a waste management licence, nothing in sub-paragraph (1) shall require a competent authority to discharge its functions under—
    - (a) the 2000 Regulations for any purpose other than preventing or, where that is not practicable, reducing emissions into the air;
    - (b) Part II of the 1990 Act for the purpose of preventing or reducing emissions into the air.
  - (6) In sub-paragraph (5), “Part B installation” has the meaning given by regulation 2(1) of the 2000 Regulations.”;
- (c) in paragraph 3(1), at the end of Table 5 insert—

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A regulator (within the meaning of regulation 2(1) of the 2000 Regulations), the Secretary of State or a person appointed under	Their respective functions in relation to permits under the 2000 Regulations except in relation to the carrying out of an exempt activity under such permits.
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section 114(1)(a) of the Environment Act  
1995.

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*The Conservation (Natural Habitats, &c.) Regulations 1994*

37. After regulation 84 of the Conservation (Natural Habitats, &c.) Regulations 1994<sup>(63)</sup> insert

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**“Permits under the Pollution Prevention and Control (England and Wales)  
Regulations 2000**

**84A.**—(1) Regulations 48 and 49 (requirement to consider effect on European site) apply in relation to the granting of a permit under the Pollution Prevention and Control (England and Wales) Regulations 2000.

(2) Where in such a case the competent authority consider that any adverse effects of the plan or project on the integrity of a European site would be avoided if the permit were subject to conditions, they may grant a permit, or cause a permit to be granted, subject to those conditions.

(3) Regulations 50 and 51 (requirement to review existing decisions and consents, etc.) apply to any such permit as is mentioned in paragraph (1).

(4) Where on the review of such a permit the competent authority consider that any adverse effects on the integrity of a European site of the carrying out or, as the case may be, the continuation of activities authorised by it would be avoided by a variation of the permit, they may vary it, or cause it to be varied, accordingly.

(5) Where any question arises as to agreeing to a plan or project, or affirming a permit on review, under regulation 49 (considerations of overriding public interest), the competent authority shall refer the matter to the Secretary of State who shall determine the matter in accordance with that regulation and give directions to the authority accordingly.”

*The Special Waste Regulations 1996*

38. The Special Waste Regulations 1996<sup>(64)</sup> have effect subject to the following amendments.

39. In regulation 15 (registers)—

(a) after paragraph (6) insert—

“(6A) Where, by virtue of regulation 16(1)(ba) or (bb) of the 1994 Regulations, section 33(1)(a), (b) and (c) of the 1990 Act does not apply to any of the activities carried on at a site at which special waste is received, paragraph (5) shall have effect as if any reference to the surrender or revocation of a person’s waste management licence were a reference to the surrender or revocation of his permit under the Pollution Prevention and Control (England and Wales) Regulations 2000 for the site in question.”;

(b) in paragraph (7), after “paragraph (6)” insert “or (6A)”.

40. In regulation 17(2) (restrictions on mixing special waste), in paragraph (a), after “1990 Act” insert— “or under a permit granted under the Pollution Prevention and Control (England and Wales) Regulations 2000”.

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<sup>(63)</sup> S.I. 1994/2716; to which there are amendments not relevant to these Regulations.

<sup>(64)</sup> S.I. 1996/972; to which there are amendments not relevant to these Regulations.

#### *The Landfill Tax Regulations 1996*

- 41.** In Regulation 33(4) of the Landfill Tax Regulations 1996(**65**), after paragraph (g) insert—
- “(h) an enforcement notice served under regulation 24 of the Pollution Prevention and Control (England and Wales) Regulations 2000;
  - (i) a suspension notice served under regulation 25 of those Regulations;
  - (j) an order under regulation 35 of those Regulations.”

#### *The Specified Risk Material Regulations 1997*

**42.** The Specified Risk Material Regulations 1997(**66**) have effect subject to the following amendments.

**43.** In regulations 24(9)(a)(i) and (b)(i), after “1990” insert— “or a permit granted under the Pollution Prevention and Control (England and Wales) Regulations 2000”.

**44.** In regulation 24(10), after “1990” insert— “or the Pollution Prevention and Control (England and Wales) Regulations 2000”.

**45.** In the second column of the table in Schedule 2, after “1990” in the entry corresponding to regulation 24(9) in the first column of that table insert— “or authorised under the Pollution Prevention and Control (England and Wales) Regulations 2000”.

#### *The Groundwater Regulations 1998*

**46.** The Groundwater Regulations 1998(**67**) have effect subject to the following amendments.

**47.** In the definition of “authorisation” in regulation 1(3), delete “and” at the end of paragraph (c) and after paragraph (d) insert—

“and

- (e) a permit under the Pollution Prevention and Control (England and Wales) Regulations 2000 in so far as it authorises the operation of a Part A installation or Part A mobile plant within the meaning of those Regulations;”.

**48.** After “(integrated pollution control)” in regulation 3 insert— “and the Pollution Prevention and Control (England and Wales) Regulations 2000”.

#### *The Contaminated Land (England) Regulations 2000*

**49.** The Contaminated Land (England) Regulations 2000(**68**) have effect subject to the following amendments.

**50.** In regulation 2—

- (a) after paragraph (1)(d) insert—

- “(da) land on which an activity has been or is being carried on in a Part A(1) installation or by means of Part A(1) mobile plant under a permit where the activity does not comprise solely things being done which are required by way of remediation;”;

- (b) after paragraph (3) insert—

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(65) S.I. [1996/1527](#).

(66) S.I. [1997/2965](#); to which there are amendments not relevant to these Regulations.

(67) S.I. [1998/2746](#).

(68) S.I. [2000/227](#).

“(3A) In paragraph (1)(da) above, “Part A(1) installation”, “Part A(1) mobile plant” and “permit” have the same meaning as in the Pollution Prevention and Control (England and Wales) Regulations 2000.”.

51. In paragraph 14 of Schedule 3—

- (a) after “section 78YB(1)” insert “or 78YB(2B)”;
- (b) in sub-paragraph (c), after “section 27” insert “or by means of enforcement action (within the meaning of section 78YB(2C))”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 2 of the Pollution Prevention and Control Act 1999. They set out a pollution control regime for the purpose of implementing the Integrated Pollution Prevention and Control Directive (Council Directive 96/61/EC) and for regulating other environmentally polluting activities not covered by the Directive. The Regulations apply to England and Wales.

### **The list of controlled activities and the type of pollution control**

The Regulations control the operation of any installation or mobile plant carrying out any of the activities listed in *Part 1 of Schedule 1* to the Regulations. Installations or mobile plant used to carry out activities listed under the heading “Part A(1)” in Part 1 of Schedule 1 (Part A(1) installations and mobile plant) are subject to integrated pollution control by the Environment Agency. Those used to carry out activities listed under the heading “Part A(2)” (Part A(2) installations and mobile plant) are subject to integrated pollution control by local authorities. Those used to carry out activities listed under the heading “Part B” (Part B installations and mobile plant) are subject to air pollution control by local authorities. *Part 2 of Schedule 1* sets out some rules for the interpretation of Part 1 of the Schedule. *Part 3 of Schedule 1* sets out rules for the interpretation of “Part A(1) installation” etc.

### **Procedural and substantive requirements**

*Part I of the Regulations (regulations 1 to 8)* sets out general provisions. There are definitions in *regulations 2 and 3*. *Regulation 8* determines which installations and mobile plant are regulated by the Environment Agency and which by local authorities (see above). The other regulations in Part I deal with such general matters as the service of notices under the Regulations.

*Part II* deals with the need for a permit to operate an installation or mobile plant covered by the Regulations (*regulation 9*), the procedure for granting permits and the contents of permits (*regulations 10 to 14 and Schedules 4 and 5*), and the treatment of permits once granted (*regulations 15 to 21 and Schedule 7*). The basic requirement for the content of permits (*regulation 12*) is to impose emission limit values based on the best available techniques. (“Best available techniques” is defined in *regulation 2* and *Schedule 2* sets out considerations which have to be taken into account when determining the best available techniques.) *Schedule 6* sets out the compensation provisions applicable where a person is required under *regulation 12* to allow an operator of an installation or Part A mobile plant to carry out work on that person’s land. *Regulation*

13 provides for the Environment Agency to notify a local authority of conditions which it considers appropriate in relation to preventing or reducing emissions to water from Part A installations and mobile plant regulated by the authority. *Regulation 14* enables the Secretary of State to make general binding rules containing requirements which may apply instead of conditions included in permits. *Regulations 15 and 17 to 21* and *Schedule 7* deal with the review, variation, transfer, surrender and revocation of permits. *Regulation 16* requires an operator of a permitted installation to give the regulator notice of any proposed change in the operation of that installation. *Regulation 22* provides for the Secretary of State to make charging schemes setting out the fees and charges to be paid in respect of applications made under the Regulations and in respect of variations, transfers, surrenders and the subsistence of permits.

*Part III (regulations 23 to 26)* contain the enforcement powers under the Regulations. *Part IV (regulation 27)* and *Schedule 8* provide for appeals to the Secretary of State. *Part V (regulations 28 to 31)* and *Schedule 9* set out information gathering powers and publicity requirements. *Part VI (regulations 32 to 35)* sets out offences for contraventions of the Regulations and provides for enforcement by the High Court and the admissibility of evidence. *Part VII (regulations 36 to 38)* enables the Secretary of State to give directions and guidance to regulators and to make plans relating to emissions. *Part VIII* and *Schedule 10* deal with the consequential amendments required by the introduction of the pollution control regimes in the Regulations.

### **Transitional provisions**

*Schedule 3* sets out the transitional provisions for bringing installations and mobile plant under the control of the Regulations. Installations and mobile plant will be phased into the Regulations over an eight year period. These Regulations will supersede the controls in Part I of the Environmental Protection Act 1990 Act and, consequently, that Part of that Act will in due course be repealed.

A regulatory impact assessment has been prepared and copies can be obtained from AEQ Division, Department of the Environment, Transport and the Regions, Zone 4/H11, Ashdown House, 123 Victoria Street, London SW1E 6DE. A copy has been placed in the library of each House of Parliament.

Copies of the British Standards publications referred to in these Regulations may be obtained from any of the sales outlets operated by the British Standards Institution or by post from the British Standards Institution at Standards House, 389 Chiswick High Road, London W4 4AL.