
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in consequence of the Regulatory Reform (Scotland) Act 2014 (“the 2014 Act”).

Article 2 repeals sections 1(1)(d) and 5 of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”), which provide respectively for Part 1 of that Act to have effect with a view to controlling the emission into the atmosphere of noxious or offensive substances from premises, and for a general duty on persons in control of certain premises in relation to harmful emissions into the atmosphere.

Sections 1(1)(d) and 5 of the 1974 Act were repealed as regards England and Wales on 16th December 1996 by Part 1 of Schedule 1 to the Environmental Protection Act 1990 (“the 1990 Act”), and matters relating to the controlling of such emissions are now regulated under other enactments including the Pollution Prevention and Control Act 1999 and regulations to be made under section 18 of the 2014 Act. Article 2 therefore completes the repeal of those sections.

Article 3 provides that certain acts carried out in relation to Part 3 of the 2014 Act are covered by the exceptions to copyright in sections 47 and 50(1) of the Copyright, Designs and Patents Act 1988. The Order does this by deeming the term “enactment” in section 47(6) and the term “Act of Parliament” in section 50(1) to include Part 3 of the 2014 Act. Article 3 does not affect any defence of statutory authority otherwise available under or by virtue of any statutory provision in relation to things done under Part 3 of the 2014 Act.

Articles 4 and 9 are consequential on section 54 of the 2014 Act, which amends the Marine (Scotland) Act 2010 (“the 2010 Act”) to confer a right to challenge certain marine licensing decisions made by the Scottish Ministers and decisions as to whether to hold a public inquiry in connection with the Ministers’ determination of applications for marine licences. The 2014 Act amends the 2010 Act to provide for a statutory appeal to the Inner House of the Court of Session by any person or body who is aggrieved by a decision of the Scottish Ministers. The statutory appeal applies only to Scottish Ministers’ decisions taken under sections 28 and 29 of the 2010 Act regarding marine licence applications which relate to activities where the consent of the Scottish Ministers under section 36 of the Electricity Act 1989 is also required.

Article 4 amends the Electricity Act 1989 to provide for a statutory appeal to the Inner House of the Court of Session by any person or body who is aggrieved by certain specified decisions of the Scottish Ministers made under that Act in relation to an application for consent to construct, extend or operate a generating station that comprises or is to comprise (in whole or in part) renewable energy installations within the Scottish inshore or Scottish offshore region. The amendments made by article 4 do not apply to decisions made before the coming into force date of this Order.

Article 5 amends the 1990 Act, and is consequential on the amendments made by article 2.

Article 6 amends the Environment Act 1995, and is also consequential on the amendments made by article 2.

Article 7 amends the Income Tax (Trading and Other Income) Act 2005 so that the meaning of “waste disposal licence” in section 167 of that Act includes an authorisation under regulations made under section 18 of the 2014 Act, with the effect that when calculating the profits of a trade in which waste materials are deposited on a waste disposal site by a trader holding such a licence, the meaning of that term includes such an authorisation.

Article 8 amends section 144 of the Corporation Taxes Act 2009 with the same effect as the amendment by article 7 has on section 167 of the Income Tax (Trading and Other Income) Act 2005.

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

Article 9 amends the Marine and Coastal Access Act 2009 to provide for a statutory appeal to the Inner House of the Court of Session by any person or body who is aggrieved by certain specified decisions of the Scottish Ministers made under that Act in relation to marine licensable activities concerning electricity generating stations to be situated in the Scottish offshore region. The amendments made by article 9 do not apply to decisions made before the coming into force date of this Order.

Article 10 provides that certain acts carried out in relation to Part 3 of the 2014 Act are covered by exceptions to copyright in paragraphs 3(4) and 6(1) of Schedule 1 to the Copyright and Rights in Databases Regulations 1997. The Order does this by deeming the term “enactment” in paragraph 3(4) and the term “Act of Parliament” in paragraph 6(1) to include Part 3 of the 2014 Act. Article 10 of the Order does not affect any defence of statutory authority otherwise available under or by virtue of any statutory provision in relation to things done under Part 3 of the 2014 Act.