

SCHEDULE 3 MINOR AND CONSEQUENTIAL MODIFICATIONS

PART 5

MISCELLANEOUS ENACTMENTS

Scottish Board of Health Act 1919

- 17 In the Scottish Board of Health Act 1919, in section 4 (transfer of powers and duties to and from the Board), paragraph (d) of subsection (1) is repealed.

Local Government (Scotland) Act 1973

- 18 In the Local Government (Scotland) Act 1973, in Schedule 27 (adaptation and amendment of enactments), paragraphs 146 to 148 are repealed.

Local Government, Planning and Land Act 1980

- 19 In the Local Government, Planning and Land Act 1980, in Schedule 2 (relaxation of controls over functions relating to clean air and pollution), paragraphs 10, 14 and 18 are repealed.

Litter Act 1983

- 20 In the Litter Act 1983—
- (a) in section 4 (consultation and proposals for abatement of litter), subsections (4), (4ZA), (4A) and (5) are repealed,
 - (b) in section 9 (orders), subsection (3) is repealed,
 - (c) in section 13 (short title, commencement and extent), in subsection (4), the words “4(4),” are repealed.

Water Act 1989

- 21 In the Water Act 1989, in Schedule 23 (control of water pollution in Scotland), paragraphs 2 and 3 are repealed.

Planning (Consequential Provisions) Act 1990

- 22 In the Planning (Consequential Provisions) Act 1990, in Schedule 2 (consequential amendments), paragraph 31(1) is repealed.

Environmental Protection Act 1990

- 23 In the Environmental Protection Act 1990—
- (a) in section 79 (statutory nuisances and inspections therefor), in subsection (10), the words from “Part I” to “under”, where it third occurs, are repealed,
 - (b) in section 80 (summary proceedings for statutory nuisances)—
 - (i) in paragraph (a) of subsection (9), the words “or 65” are repealed,

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- (ii) paragraph (b) of that subsection, and the word “or” immediately preceding it, are repealed,
- (iii) paragraph (c) of that subsection, and the word “or” immediately preceding it, are repealed,
- (iv) subsection (10) is repealed,
- (c) section 84 (termination of Public Health Act controls over offensive trades, etc.) is repealed,
- (d) section 145 (penalties for offences of polluting controlled waters, etc.) is repealed,
- (e) in Schedule 15 (consequential and minor amendments of enactments)—
 - (i) paragraph 2 is repealed,
 - (ii) in paragraph 15, sub-paragraphs (2) and (4) are repealed,
 - (iii) paragraph 17 is repealed,
- (f) in Schedule 16 (repeals), in Part 1 (enactments relating to processes), the entry relating to [1990 c.43 \(Environmental Protection Act 1990\)](#) is repealed.

Natural Heritage (Scotland) Act 1991

- 24 (1) Section 24 of the Natural Heritage (Scotland) Act 1991 (rights of entry and inspection under Parts 2 and 3) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, the words “SEPA or” are repealed,
 - (b) in paragraph (a)—
 - (i) the words “SEPA or” are repealed,
 - (ii) the words “II or” are repealed,
 - (c) in paragraph (c)—
 - (i) for the words “either of these Parts” substitute “Part III”,
 - (ii) for the words “one of these Parts” substitute “that Part”.
- (3) In subsection (9), the words “SEPA or”, in both places where they occur, are repealed.
- (4) In the title to section 24, for the words “Parts II and III” substitute “Part III”.

Agricultural Holdings (Scotland) Act 1991

- 25 In section 26 of the Agricultural Holdings (Scotland) Act 1991 (certificates of bad husbandry), subsection (2) is repealed.

Clean Air Act 1993

- 26 In the Clean Air Act 1993, in section 42 (colliery spoilbanks)—
- (a) in subsection (2), for the words “or quarry” substitute “, or the operator of a quarry,”,
 - (b) in subsection (6), for the words from “mine” to the end substitute—
 - ““mine” is to be construed in accordance with section 180 of the Mines and Quarries Act 1954;
 - “operator”, in relation to a quarry, has the meaning given by regulation 2(1) of the [Quarries Regulations 1999 \(S.I. 1999/2024\)](#);

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“owner”, in relation to a mine, is to be construed in accordance with section 181(1) and (4) of the Mines and Quarries Act 1954;
“quarry” is to be construed in accordance with regulation 3 of the Quarries Regulations 1999.”.

Radioactive Substances Act 1993

- 27 In the Radioactive Substances Act 1993, in Schedule 3 (enactments other than local enactments to which section 40 applies)—
- (a) paragraph 11 is repealed,
 - (b) in paragraph 16—
 - (i) the words “, 30B, 30D, 41 to 42B” are repealed,
 - (ii) for “(3)” substitute “(2)”.

Local Government etc. (Scotland) Act 1994

- 28 In the Local Government etc. (Scotland) Act 1994, in Schedule 13 (minor and consequential amendments), sub-paragraphs (3), (5) and (10) of paragraph 95 are repealed.

Environment Act 1995

- 29 (1) The Environment Act 1995 is amended as follows.
- (2) In section 21 (transfer of functions to SEPA)—
- (a) in subsection (1)—
 - (i) paragraph (a)(i), (iii) and (iv) are repealed,
 - (ii) in paragraph (a)(ii), the words from “Part III” to “and” are repealed,
 - (iii) paragraphs (c), (d), (f) and (h) are repealed,
 - (b) in subsection (2), paragraph (b) is repealed.
- (3) Section 23 (functions of the staff commission established under section 12 of the Local Government etc. (Scotland) Act 1994) is repealed.
- (4) In section 56 (interpretation of Part 1), in subsection (1), in the definition of “disposal authority”, paragraph (b) is repealed.
- (5) In section 91 (interpretation of Part 4), in subsection (1), in the definition of “action plan”, for “84(2)(b)” substitute “84(2)”.
- (6) In section 110 (offences)—
- (a) in subsection (1), after “to” insert “assault, hinder or”,
 - (b) in subsection (4)—
 - (i) in paragraph (a), after “of” where it second occurs insert “assaulting, hindering or”,
 - (ii) in sub-paragraph (i) of that paragraph, after “maximum” insert “or to imprisonment for a term not exceeding 12 months, or to both”,
 - (iii) in paragraph (b), for the words “level 5 on the standard scale” substitute “the prescribed sum within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995 or to imprisonment for a term not exceeding 12 months, or to both”,
 - (c) after subsection (5) insert—

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- “(5A) A person may be convicted of the offence under subsection (1) above of hindering or obstructing even though it is—
- (a) effected by means other than physical means, or
 - (b) effected by action directed only at any vehicle, apparatus, equipment or other thing used or to be used by an authorised person.
- (5B) Subsection (5C) applies where, in the trial of a person (“the accused”) charged in summary proceedings with an offence under subsection (1) above, the court—
- (a) is not satisfied that the accused committed the offence, but
 - (b) is satisfied that the accused committed an offence under subsection (2) above.
- (5C) The court may acquit the accused of the charge and, instead, find the accused guilty of an offence under subsection (2) above.”.
- (7) In section 114 (power of the Scottish Ministers to delegate functions relating to appeals), subsections (2)(a)(i) and (3)(b) are repealed.
- (8) In Schedule 11 (air quality: supplemental provisions)—
- (a) in paragraph 1(1)(b), the words “or 84” are repealed,
 - (b) in paragraph 4(2)(b), the words “or 84” are repealed.
- (9) In schedule 20 (delegation of appellate functions of the Scottish Ministers), paragraph 4(3)(a) is repealed.
- (10) In Schedule 22 (minor and consequential amendments)—
- (a) paragraph 1 is repealed,
 - (b) in paragraph 29—
 - (i) in sub-paragraph (2), for the words from “section 30C(1)” to the end of that sub-paragraph, substitute “section 51”,
 - (ii) sub-paragraphs (4)(b) to (e), (5), (6), (8), (9)(a) and (b), (10) to (15), (17) to (22), (25), (26), (29) and (30) are repealed,
 - (c) paragraph 93 is repealed,
 - (d) in paragraph 96, sub-paragraphs (2) to (5), (7) and (8) are repealed.
- (11) In Schedule 23 (transitional and transitory provisions and savings), the following paragraphs are repealed—
- (a) paragraph 4,
 - (b) paragraph 6,
 - (c) paragraph 8, and
 - (d) paragraph 18.
- 30 The amendments made by paragraph 29 to subsection (4) of section 110 of the Environment Act 1995 do not affect the penalty for an offence under that section committed before the coming into force of those amendments.

Criminal Procedure (Scotland) Act 1995

- 31 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 277 (transcript of police interview sufficient evidence)—

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- (a) in subsection (1)—
 - (i) the word “or” immediately following paragraph (a) is repealed, and
 - (ii) after paragraph (b) insert “; or
 - (c) a person authorised by the Scottish Environment Protection Agency under section 108 of the Environment Protection Act 1995 and an accused person.”,
 - (b) after subsection (4) add—

“(5) Subsection (1) is without prejudice to section 108(12) of the Environment Act 1995.”.
- (3) In section 280 (routine evidence)—
- (a) after subsection (3), insert—

“(3A) For the purposes of any criminal proceedings, a report purporting to be signed by a person authorised by the Scottish Environment Protection Agency for the purpose of this subsection is sufficient evidence of any fact or conclusion as to fact contained in the report and of the authority of the signatory.”,
 - (b) in subsection (6)—
 - (i) after “(1)”, where it first occurs, insert “, (3A)”, and
 - (ii) in paragraph (b), after “subsection”, where it second occurs, insert “(3A) or”.
- (4) In Schedule 9 (certificates as to proof of certain routine matters)—
- (a) in the table, omit the entry relating to the Water Environment (Controlled Activities) (Scotland) Regulations 2005 Regulation 40,
 - (b) at the end of the table insert the following entries—

“The Water Environment
(Controlled Activities)
(Scotland) Regulations
2011 (S.S.I. 2011/209)

Regulation 44	A person authorised to do so by the Scottish Environment Protection Agency	That the person has analysed a sample identified in the certificate (by label or otherwise) and that the sample is of a nature and composition specified in the certificate.
Regulations made by virtue of section 18 of the Regulatory Reform (Scotland) Act 2014 (asp 3)	A person authorised to do so by a regulator (within the meaning of paragraph 3(1) of schedule 2 to that Act)	That the person has analysed a sample identified in the certificate (by label or otherwise) and that the sample is of a nature and composition specified in the certificate.

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In relation to a person specified in the certificate that, on a date and in relation to an activity so specified, the person held or, as the case may be, did not hold a permit (within the meaning of paragraph 34 of schedule 2 to that Act) granted by such a regulator and, where the person held such a permit, any condition to which the permit is subject.

In relation to a person specified in the certificate that, on a date and in relation to an activity so specified, the person held or, as the case may be, did not hold registration (within the meaning of paragraph 34 of schedule 2 to that Act) granted by such a regulator and, where the person held such registration—

- (a) any condition to which the registration is subject;
- (b) whether the registration subsisted on the date specified in the certificate.

In relation to a person specified in the certificate that, on a date and in relation to an activity so specified, the person had given notification (within the meaning of paragraph 34 of schedule 2 to that Act) to such a regulator and, where the person gave such notification, whether the notification subsisted on the date specified in the certificate.

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In relation to a permit or registration (in each case within the meaning of paragraph 34 of schedule 2 to that Act) a description of any variation, transfer, surrender, suspension or revocation of the permit or registration.

In relation to a person specified in the certificate that, on a date so specified, such regulator served on the person a notice mentioned in paragraph 18 of schedule 2 to that Act.

That such a regulator has, in pursuance of paragraph 4(3)(d) of schedule 2 to that Act, made general binding rules as mentioned in that paragraph, or has, in pursuance of paragraph 11 of that schedule, made standard rules as mentioned in that paragraph; and the content of those general binding rules or standard rules.”.

Town and Country Planning (Scotland) Act 1997

- 32 In the Town and Country Planning (Scotland) Act 1997, in section 275 (regulations and orders), the subsection numbered “(2A)” inserted by section 54(16)(a) of the Planning etc. (Scotland) Act 2006 is renumbered as “(2B)”.

Planning (Consequential Provisions) (Scotland) Act 1997

- 33 In the Planning (Consequential Provisions) (Scotland) Act 1997, in Schedule 2 (consequential amendments), paragraph 23(1) is repealed.

Crime and Punishment (Scotland) Act 1997

- 34 In the Crime and Punishment (Scotland) Act 1997, in section 30 (routine evidence)—
- (a) in subsection (1), for the words “subsections (2) and (3)” substitute “subsection (3)”,
 - (b) subsection (2) is repealed.

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City of Edinburgh (Guided Busways) Order Confirmation Act 1998

- 35 In the City of Edinburgh (Guided Busways) Order Confirmation Act 1998, in section 29 (connection of drains, etc, with streams, etc.) of the Order contained in the Schedule confirmed by section 1 of that Act, subsection (4) is repealed.

Pollution Prevention and Control Act 1999

- 36 In the Pollution Prevention and Control Act 1999, in Schedule 3 (repeals), in the third column of the entry relating to the Environmental Protection Act 1990, the words “In section 79(10), the words “under Part I or”” are repealed.

Antisocial Behaviour etc. (Scotland) Act 2004

- 37 In the Antisocial Behaviour etc. (Scotland) Act 2004, in schedule 2 (penalties for certain environmental offences), paragraph 2 is repealed.

Forth Crossing Act 2011

- 38 In section 70 of the Forth Crossing Act 2011 (control of noise: Control of Pollution Act 1974), subsection (3) is repealed.