

SCHEDULES

SCHEDULE 1

PARTICULAR PURPOSES FOR WHICH PROVISION MAY BE MADE UNDER ARTICLE 4

PART I

LIST OF PURPOSES

Preliminary

1.—(1) Establishing standards, objectives or requirements in relation to emissions within the meaning of the regulations.

(2) Authorising the making of plans for—

- (a) the setting of overall limits,
- (b) the allocation of quotas, or
- (c) the progressive improvement of standards or objectives,

relating to such emissions.

(3) Authorising the making of schemes for the trading or other transfer of quotas so allocated.

2.—(1) Conferring functions on the Department or the Secretary of State and determining the other bodies or persons (in this Schedule referred to as “enforcing authorities”) by which functions conferred by the regulations—

- (a) in relation to permits under the regulations, or
- (b) otherwise for or in connection with the prevention or control of environmental pollution,

are to be exercisable.

(2) Specifying any purposes for which any such functions are to be exercisable by enforcing authorities.

3. Enabling the Department or the Secretary of State to give directions which enforcing authorities are to comply with, or guidance which enforcing authorities are to have regard to, in exercising functions under the regulations, including—

- (a) directions providing for any functions exercisable by one enforcing authority to be instead exercisable by another, or by the Department or Secretary of State;
- (b) directions given for the purposes of the implementation of any obligations of the United Kingdom under the Community Treaties or under any international agreement to which the United Kingdom is a party;
- (c) directions relating to the exercise of any function in a particular case or class of case.

Status: Point in time view as at 31/01/2014.

Changes to legislation: There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, SCHEDULE 1. (See end of Document for details)

Permits

4. Prohibiting persons from operating any installation or plant of any specified description, or otherwise carrying on any activities of any specified description, except—

- (a) under a permit in force under the regulations, and
- (b) in accordance with any conditions to which the permit is subject.

5. Specifying restrictions or other requirements in connection with the grant of permits (including provisions for restricting the grant of permits to those who are fit and proper persons within the meaning of the regulations); and otherwise regulating the procedure to be followed in connection with the grant of permits.

6.—(1) Prescribing the contents of permits.

- (2) Authorising permits to be granted subject to conditions imposed by enforcing authorities.
- (3) Securing that permits have effect subject to—
 - (a) conditions specified in the regulations; or
 - (b) rules of general application specified in or made under the regulations.

7.—(1) Requiring permits or the conditions to which permits are subject to be reviewed by enforcing authorities (whether periodically or in any specified circumstances).

- (2) Authorising or requiring the variation of permits or such conditions by enforcing authorities (whether on applications made by holders of permits or otherwise).
- (3) Regulating the making of changes—
 - (a) in the operation of the installations or plant to which permits relate, or
 - (b) in the case of permits for the carrying on of activities otherwise than in the course of operating any installation or plant, in the carrying on of the activities.

8.—(1) Regulating the transfer or surrender of permits.

- (2) Authorising the revocation of permits by enforcing authorities.
- (3) Authorising the imposition by enforcing authorities of requirements with respect to the taking of preventive or remedial action (by holders of permits or other persons) in connection with the surrender or revocation of permits.

9. Authorising the Department to make schemes for the charging by enforcing authorities of fees or other charges in respect of, or in respect of an application for—

- (a) the grant of a permit,
- (b) the variation of a permit or the conditions to which it is subject, or
- (c) the transfer or surrender of a permit,

or in respect of the subsistence of a permit.

^{F1}9A.

F1 Sch. 1 para. 9A omitted (3.12.2012) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **10(1)**

9B.—(1) Without prejudice to paragraph 9, authorising the Department to make schemes for the charging by enforcing authorities of fees or other charges as a means of recovering costs incurred

by them in performing functions conferred [^{F2}under or by virtue of regulations made for the purpose of implementing the EU ETS Directive].

[^{F3}(2) Without prejudice to paragraph 9, authorising the Department to make schemes for the charging by enforcing authorities of fees or other charges (“registry charges”) in respect of—

- (a) an application to open an account that, under the [^{F4}Registries Regulation 2013], is required to be held in a trading scheme registry;
- (b) the subsistence of such an account;
- (c) the updating of information provided to the Environment Agency in relation to such an account.]

F2	Words in Sch. 1 para. 9B(1) substituted (3.12.2012) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788) , regs. 1, 10(2)(a)
F3	Sch. 1 para. 9B(2) substituted (3.12.2012) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788) , regs. 1, 10(2)(b)
F4	Words in Sch. 1 para. 9B(2)(a) substituted (31.1.2014) by The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013 (S.I. 2013/3135) , regs. 1, 15

10. Authorising, or authorising the Department to make schemes for, the charging by the Department or public bodies of fees or other charges in respect of—

- (a) the testing or analysis of substances
- (b) the validating of, or of the results of, any testing or analysis of substances, or
- (c) assessing how the environment might be affected by the release into it of any substances,

in cases where the testing, analysis, validating or assessing is in any way in anticipation of, or otherwise in connection with, the making of applications for the grant of permits or is carried out in pursuance of conditions to which any permit is subject.

Information, publicity and consultation

11. Enabling persons of any specified description (whether or not they are holders of permits) to be required—

- (a) to compile information—
 - (i) on emissions within the meaning of the regulations;
 - (ii) on energy consumption and on the efficiency with which energy is used;
 - (iii) on waste within the meaning of the regulations and on the destinations of such waste;
- (b) to provide such information in such manner as is specified in the regulations.

12. Securing—

- (a) that publicity is given to specified matters;
- (b) that enforcing authorities maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be, commercially confidential and subject to any other exceptions specified in the regulations) which are open to public inspection;
- (c) that copies of entries in such registers, or of specified documents, may be obtained by members of the public.

13. Requiring or authorising enforcing authorities to carry out consultation in connection with the exercise of any of their functions; and providing for them to take into account representations made to them on consultation.

Status: Point in time view as at 31/01/2014.

Changes to legislation: There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, SCHEDULE 1. (See end of Document for details)

Enforcement and offences

14.—(1) Conferring on enforcing authorities functions with respect to the monitoring and inspection of the carrying on of activities to which permits relate, including—

- (a) power to take samples or to make copies of information;
- (b) power to arrange for preventive or remedial action to be taken at the expense of holders of permits.

(2) Authorising the appointment of suitable persons to exercise any such functions and conferring powers (such as those specified in Article 17(3) of the Industrial Pollution Control (Northern Ireland) Order 1997 (NI 18)) on persons so appointed.

15.—(1) Authorising enforcing authorities to serve on holders of permits—

- (a) notices requiring them to take remedial action in respect of contraventions, actual or potential, of conditions to which their permits are subject;
- (b) notices requiring them to provide such financial security as the enforcing authorities serving the notices consider appropriate pending the taking of remedial action in respect of any such contraventions;
- (c) notices requiring them to take steps to remove imminent risks of serious environmental pollution (whether or not arising from any such contraventions).

(2) Providing for the enforcement of such notices by proceedings in the High Court.

16. Authorising enforcing authorities to suspend the operation of permits so far as having effect to authorise the carrying on of activities to which they relate.

17. The creation of offences and dealing with matters relating to such offences, including—

- (a) the provision of defences; and
- (b) evidentiary matters.

18. Enabling, where a person has been convicted of an offence under the regulations—

- (a) a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment); or
- (b) an enforcing authority to arrange for such action to be taken at that person's expense.

Appeals

19.—(1) Conferring rights of appeal in respect of decisions made, notices served or other things done (or omitted to be done) under the regulations; and making provision for (or for the determination of) matters relating to the making, considering and determination of such appeals (including provision for or in connection with the holding of inquiries or hearings).

(2) Making provision for—

- (a) the payment of fees and costs in connection with such appeals; and
- (b) the determination of the amount of any such fees or costs.

General

20.—(1) Making provision which, subject to any modifications that the Department considers appropriate, corresponds or is similar to—

- (a) any provision made by or under, or capable of being made under—

- (i) the Industrial Pollution Control (Northern Ireland) Order 1997; or
 - (ii) Part II of the Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19);
or
 - (b) any provision made, or capable of being made, under section 2(2) of the European Communities Act 1972 (c.68) in connection with one of the relevant directives.
- (2) In sub-paragraph (1) “the relevant directives” means—
- (a) Council Directive 96/61/EC concerning integrated pollution prevention and control;
 - [^{F5}(b) Directive 2008/98/EC of the European Parliament and of the Council on waste;]
 - (c) Council Directive 99/31/EC on the landfill of waste; and
 - (d) any other directive of the Council of the European Communities designated by the Department by order for the purposes of this paragraph.
- (3) Making provision about the application of the regulations to the Crown.

F5 Sch. 1 para. 20(2)(b) substituted (8.4.2011) by Waste Regulations (Northern Ireland) 2011 (S.R. 2011/127), reg. 2(2) (with reg. 9(2))

PART II

SUPPLEMENTARY PROVISIONS

Particular types of pollution

21. The regulations may provide for specified provisions of the regulations to have effect in relation only to such environmental pollution as is specified.

Determination of matters by enforcing authorities

22. The regulations may make provision for anything which, by virtue of paragraphs 5 to 8, could be provided for by the regulations to be determined under the regulations by enforcing authorities.

Imposition of conditions

23. In connection with the determination of conditions as mentioned in paragraph 6(3)(a) the regulations may in particular provide—

- (a) for such conditions to be determined in the light of any specified general principles and any directions or guidance given under the regulations;
- (b) for such guidance to include guidance sanctioning reliance by an enforcing authority on any arrangements referred to in the guidance to operate to secure a particular result as an alternative to imposing a condition.

Charging schemes

24. The regulations may require any such scheme as is mentioned in paragraph 9 [^{F6},]^{F7}...[^{F8} 9B] or 10 to be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure (whether or not incurred by the enforcing authority or other person to whom they are so payable) as is specified.

Status: Point in time view as at 31/01/2014.

Changes to legislation: There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, SCHEDULE 1. (See end of Document for details)

- F6** Words in Sch. 1 para. 24 inserted (1.4.2010) by Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/92), regs. 1(1), **2(2)(b)**
- F7** Word in Sch. 1 para. 24 omitted (3.12.2012) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, **11(1)**
- F8** Word in Sch. 1 para. 24 inserted (1.1.2012) by Greenhouse Gas Emissions Trading Scheme (Amendment) (Registries and Fees etc.) Regulations 2011 (S.I. 2011/2911), reg. 4, **Sch. para. 26** (with Sch. paras. 33-36)

[^{F9}24A. The regulations may require any scheme as is mentioned in paragraph ^{F10}...^[^{F11}9B] to include provision which gives effect to any proposal of the Environment Agency to prescribe ^{F12}...^[^{F13}registry charges] and for any such charges to be paid to that Agency.]

- F9** Sch. 1 para. 24A inserted (1.4.2010) by Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/92), regs. 1(1), **2(2)(c)**
- F10** Words in Sch. 1 para. 24A omitted (3.12.2012) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, **11(2)(a)**
- F11** Words in Sch. 1 para. 24A inserted (1.1.2012) by Greenhouse Gas Emissions Trading Scheme (Amendment) (Registries and Fees etc.) Regulations 2011 (S.I. 2011/2911), reg. 4, **Sch. para. 27(a)** (with Sch. paras. 33-36)
- F12** Words in Sch. 1 para. 24A omitted (3.12.2012) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, **11(2)(b)**
- F13** Words in Sch. 1 para. 24A inserted (1.1.2012) by Greenhouse Gas Emissions Trading Scheme (Amendment) (Registries and Fees etc.) Regulations 2011 (S.I. 2011/2911), reg. 4, **Sch. para. 27(b)** (with Sch. paras. 33-36)

Offences

25.—(1) The regulations may provide for any such offence as is mentioned in paragraph 17 to be triable—

- (a) only summarily; or
- (b) either summarily or on indictment

(2) The regulations may provide for such an offence to be punishable—

- (a) on summary conviction by—
 - (i) imprisonment for a term not exceeding such period as is specified (which may not exceed six months), or
 - (ii) a fine not exceeding such amount as is specified (which may not exceed [^{F14}£50,000]),
 or both; or
- (b) on conviction on indictment by—
 - (i) imprisonment for a term not exceeding such period as is specified (which may not exceed five years), or
 - (ii) a fine,
 or both.

- F14** Sum in Sch. 1 para. 25(2)(a)(ii) substituted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), ss. 73, 78; S.R. 2012/13, art. 2(2), Sch. 2

Interpretation

26. In this Schedule—

F15 ...

F15 ...

[^{F16}“ Environment Agency ” means the Agency constituted under the Environment Act 1995;]

[^{F17}“the EU ETS Directive ” means Directive 2003/87/ EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emissions allowance trading within the Community and amending Council Directive 96/61/ EC , as amended from time to time;]

“public body” means a body established or constituted by or under a statutory provision;

[^{F18}“the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 290/204/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011, as amended from time to time;]

“the regulations” means regulations under Article 4;

“specified” means specified in regulations under that Article [^{F19}:]

[^{F20}“trading scheme registry” means any registry operated by the Environment Agency for the purpose of meeting the obligations of the United Kingdom referred to in Articles 4(3) and 5(1) of the Registries Regulation 2013.]

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| <p>F15 Words in Sch. 1 para. 26 omitted (3.12.2012) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, 12(2)</p> <p>F16 Sch.1 para. 26: definition of "Environment Agency" inserted (1.4.2010) by Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/92), regs. 1(1), 2(2)(d)(i)</p> <p>F17 Words in Sch. 1 para. 26 inserted (3.12.2012) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, 12(3)</p> <p>F18 Words in Sch. 1 para. 26 substituted (31.1.2014) by The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013 (S.I. 2013/3135), regs. 1, 16(2)</p> <p>F19 In Sch.1 para. 26 ":" substituted (1.4.2010) by Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/92), regs. 1(1), 2(2)(d)(ii)</p> <p>F20 Words in Sch. 1 para. 26 substituted (31.1.2014) by The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013 (S.I. 2013/3135), regs. 1, 16(3)</p> |
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Changes to legislation:

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