

## SCHEDULE 10

### CONSEQUENTIAL AMENDMENTS

#### PART 1

#### PUBLIC GENERAL ACTS

##### *Environmental Protection Act 1990*

3.—(1) The Environmental Protection Act 1990(1) has effect subject to the following amendments.

(2) In section 6 (authorisations : general provisions)—

(a) at the beginning of subsection (6) insert “Subject to subsection (6A) below,”;

(b) after that subsection 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;

(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 two year period 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 meanings given in Schedule 3 to the Pollution Prevention and Control (Scotland) Regulations 2000.”.

(3) In section 34(1)(duty of care as respects waste)—

(a) in subsection (1), after paragraph (a) insert—

“(aa) to prevent any contravention by any other person of regulation 6 of the Pollution Prevention and Control (Scotland) Regulations 2000 or of a condition of a permit granted under regulation 7 of those Regulations;”;

(b) in paragraph (c)(ii), after the words “that section”, insert “or any condition of a permit granted under regulation 7 of those Regulations;”.

(4) 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—

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(1) 1990 c. 43.

**Status:** This is the original version (as it was originally made).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

“(11A) A licence shall cease to have effect if and to the extent that the treatment, keeping or disposal of waste authorised by the license is authorised by a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999.”.

(5) In section 78YB (interaction of contaminated land provisions with other enactments)(2), 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
- (b) enforcement action may be taken in relation to that activity.

(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;

“enforcement action” means action under regulation 19 (enforcement notices) or regulation 21(2) (power of the Scottish Environment Protection Agency to remedy pollution) of the Pollution Prevention and Control (Scotland) Regulations 2000.”.

(6) In section 79(10) (restrictions on taking proceedings for statutory nuisance)(3), for the words “or (e)” substitute “,(e) or (g)” and for “paragraph (g) or (ga)” substitute “paragraph (ga)”.

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

(3) Section 79(10) was amended by paragraph 2(d) of Schedule 17 to the Environment Act 1995.