

## SCHEDULE 6

Regulation 21

### AMENDMENTS TO OTHER LEGISLATION

#### **Amendment to the Environment Act 1995(1)**

1. In section 41(2) of the Environment Act 1995 after subsection (f) there is added—
  - “(g) any other approval, consent, consideration or determination carried out by the Agency relating to any obligations of the United Kingdom under the Community Treaties or any application for such an approval of consent, consideration or determination.”

#### **Amendment to the Environmental Protection (Duty of Care) Regulations 1991(2)**

2. In regulation 2(2)(a) (contents of transfer notes) of the Environmental Protection (Duty of Care) Regulations 1991 after “identify the waste to which it relates” there is inserted “by reference to the appropriate six-digit codes in the European Waste Catalogue.(3)”.

#### **Amendment to the 2000 Regulations**

- 3.—(1) The 2000 Regulations are amended as follows.
  - (2) In regulation 2(1) (Interpretation: general)—
    - (a) before the definition of “change in operation” there is inserted ““the 2003 Regulations” means the Landfill (Scotland) Regulations 2003;”
    - (b) after the definition of “installation” there is inserted ““landfill” means a landfill to which the Landfill (Scotland) Regulations 2003 apply;”; and
    - (c) after the definition of “pollution” there is inserted ““the relevant date” has the meaning given by regulation 1(1) of the 2003 Regulations;”.
  - (3) In regulation 4 (fit and proper person)—
    - (a) in paragraph (3) for subparagraphs (b) and (c) there is substituted –
      - “(b) for those sites to which regulation 6 of the 2003 Regulations does not apply that person has not made, or will not before commencement of the specified waste management activity make, adequate financial provision (either by way of financial security or its equivalent) to ensure that—
        - (i) the obligations (including after-care provisions) arising from the permit in relation to that activity are discharged; and
        - (ii) any closure procedures required by the permit in relation to that activity are followed;
      - (c) that person and all staff engaged in carrying out that activity will not be provided with adequate professional technical development and training; or
      - (d) the management of that activity will not be in the hands of a technically competent person.”; and
    - (b) in paragraph (5)(b) for “paragraph (3)(b)” there is substituted “paragraph (3)(d)”.

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(1) [1995 c. 25](#).

(2) [S.I.1991/2839](#); relevant amendments were made by [S.I. 2000/1973](#).

(3) Council Decision [2000/532/EC](#) (O.J. L 226, 6.9.2000, p.3) as amended by Council Decisions [2001/118/EC](#) (O.J. L 47, 16.2.2001, p.1), [2001/119/EC](#) (O.J. L 47, 16.2.2001 p.32) and [2001/573/EC](#) (O.J. L 203, 28.7.2001, p.18)

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(4) In regulation 7(2) (permits: general provisions) after “regulation 9” there is inserted “(or the applicable provisions of regulation 10 of the 2003 Regulations)” .

(5) In regulation 9(15) (Conditions: specific requirements) after “this regulation” there is inserted “or the appropriate provisions of regulation 10 of the 2003 Regulations”.

(6) In regulation 13(1) and (4) (variation of permit) after “regulations 8 and 9” there is inserted “or regulation 10 of the 2003 Regulations”.

(7) In regulation 22 (appeals to the Scottish Ministers and the sheriff)–

(a) in paragraph (1) after sub-paragraph (e) there is inserted–

“(f) a person whose request to initiate the closure procedure is not approved under regulation 17(3)(b) of the 2003 Regulations;

(g) a person who is aggrieved by a decision under paragraph 1(3)(b) of Schedule 5 to the 2003 Regulations”;

(b) in paragraph (2) for “or a suspension notice” there is substituted “a suspension notice or a closure notice under regulation 18(1) of the 2003 Regulations”;

(c) after paragraph (10) there is inserted–

“(10A) Where an appeal is brought under paragraph (1)(g) in relation to a requirement to initiate the closure procedure or under paragraph (2) in relation to a closure notice, the closure procedure shall not be initiated pending the final determination or the withdrawal of the appeal.”;

(d) in paragraph (11) after “(other than paragraph 2)” there is inserted “or the appropriate provisions of regulation 10 of the 2003 Regulations”;

(e) after paragraph (13) there is inserted–

“(14) Where an appeal is brought under paragraph (1)(g) in relation to which a waste management licence within the meaning of Part II of the Environmental Protection Act 1990 (“a licence”) is in force, this regulation and Schedule 8 shall apply as if:

(a) references to a permit were references to a licence;

(b) references to the operator were references to the licence holder; and

(c) references to an installation or mobile plant were references to a landfill.”

(8) In regulation 23(1) and (2) (directions to SEPA) after “these Regulations” there is inserted “or the 2003 Regulations”.

(9) In regulation 24(1) and (2) (guidance to SEPA) after “these Regulations” there is inserted “or the 2003 Regulations”.

(10) In regulation 26(1) and (2) (information) after “functions under these Regulations” there is inserted “or the 2003 Regulations”.

(11) In regulation 30(1) (offences)–

(a) in subparagraph (d) for “or a suspension notice” there is substituted, “, a suspension notice or a closure notice under regulation 18 of the 2003 Regulations”; and

(b) in subparagraph (f)(i) after “these Regulations” there is inserted “or the 2003 Regulations”.

(12) In regulation 34 (application to the Crown)–

(a) in paragraph (1) after “these Regulations” there is inserted “and the 2003 Regulations”;

(b) in paragraph (2)–

(i) after “these Regulations” there is inserted “or the 2003 Regulations”; and

(ii) after “liable under regulation 30” there is inserted “below or under regulation 19 of the 2003 Regulations”.

- (c) in paragraph (3) after “these Regulations” there is inserted “and the 2003 Regulations”; and
- (d) in paragraph (4) after “these Regulations” there is inserted “or the 2003 Regulations”.

(13) In regulation 35(1) (notices) after “these Regulations” there is inserted “or the 2003 Regulations”.

(14) In Schedule 3 (prescribed date and transitional arrangements)–

- (a) in the table in paragraph 2(2) for the entry relating to Section 5.2 there is substituted–

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Section 5.2	The period specified in the notice served on the operator under paragraph 1(9) of
Part A	Schedule 5 to the 2003 Regulations.

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(b) at the end of paragraph 2(11) there is inserted–

“(12) If–

- (a) an activity falling within Part A of Section 5.2 of Part 1 of Schedule 1 is carried out in an existing Part A installation; and
- (b) an activity falling within some other Section of Part 1 of Schedule 1 is also carried out in the same installation (“a transitional landfill installation”),

the preceding provisions of this paragraph shall apply as if there were two separate existing Part A installations one consisting of the part of the installation where the activity falling within Part A of Section 5.2 in Part 1 of Schedule 1 is carried out and the other consisting of the remainder of the installation.

(13) If–

- (a) the relevant period has expired for a transitional landfill installation; and
- (b) an application for a permit to operate the installation has been duly made but has not been determined at the relevant date, then–
  - (i) the application shall be treated as an application to operate the parts of the installation other than those where the activity falling within Part A of Section 5.2 in Part 1 of Schedule 1 is carried out; and
  - (ii) the prescribed date for the remaining part of the installation shall be determined as if it were a separate installation.”.

(15) After paragraph 1 of Part 1 of Schedule 4 (applications for permits) there is inserted–

“**1A.** An application for a landfill permit under regulation 7 relating to an installation where an activity falling within Part A of Section 5.2 in Part 1 of Schedule 1 is carried out shall contain the following additional information–

- (a) the description of the types and total quantity of waste to be deposited;
- (b) the proposed capacity of the disposal site;
- (c) a description of the site, including its hydrogeological and geological characteristics;
- (d) the proposed operation, monitoring and control plan;
- (e) the proposed plan for the closure and after-care procedures; and
- (f) for those sites to which regulation 6 of the 2003 Regulations does not apply the financial provision required by virtue of regulation 4(3)(b).”.

(16) In paragraph 1 of Schedule 9 (registers)–

- (a) in sub-paragraph (k) after “suspension notice” there is inserted “or closure notice under the 2003 Regulations”;

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- (b) in sub-paragraph (q) after “regulation 30(1)” there is inserted “above or regulation 19(1) of the 2003 Regulations”;
- (c) in sub-paragraph (t) after “regulation 26(2)” there is inserted “or a closure notice under the 2003 Regulations”;
- (d) after sub-paragraph (w) there is inserted—
  - “(x) all particulars of any conditioning plan or notification as referred to in sub-paragraph 1(3)(b) or (5)(3)(a) of Schedule 5 to the 2003 Regulations;
  - (y) all particulars of any notice requiring a landfill to close (in whole or part) issued under paragraph 1(3) of Schedule 5 to the 2003 Regulations;
  - (z) all particulars of any notification or report required before definitive closure of a landfill under regulation 17(4) of the 2003 Regulations.”

#### **The Waste Management Licensing Regulations 1994**

- 4.—(1) the Waste Management Licensing Regulations 1994(4) are amended as follows.
- (2) In regulation 3 (relevant offences), after sub-paragraph (o) there is inserted—
    - “(p) regulation 19(1) of the Landfill (Scotland) Regulations 2003.”
  - (3) In regulation 10(1) (registers),
    - (a) in sub-paragraph (f) after “(whether or not in relation to a licence)” there is inserted “or regulation 19(1) of the Landfill (Scotland) Regulations 2003”;
    - (b) after subparagraph (o) there is inserted—
      - “(p) all particulars of any conditioning plan or notification as referred to in sub-paragraph 1(3)(b) or (5)(3)(a) of Schedule 5 to the Landfill (Scotland) Regulations 2003;
      - (q) all particulars of any notice of a decision under paragraph 1(3) of Schedule 5 to the Landfill (Scotland) Regulations 2003;
      - (r) all particulars of any notification or report required before definitive closure of a landfill under regulation 17(4) of the Landfill (Scotland) Regulations 2003.”.

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(4) S.I. [1994/1056](#) to which there are amendments which are not relevant.