



# Pollution Prevention and Control Act 1999

## 1999 CHAPTER 24

An Act to make provision for implementing Council Directive [96/61/EC](#) and for otherwise preventing and controlling pollution; to make provision about certain expired or expiring disposal or waste management licences; and for connected purposes. [27th July 1999]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### 1 General purpose of section 2 and definitions.

(1) The purpose of section 2 is to enable provision to be made for or in connection with—

- (a) implementing Council Directive [96/61/EC](#) concerning integrated pollution prevention and control;
- (b) regulating, otherwise than in pursuance of that Directive, activities which are capable of causing any environmental pollution;
- (c) otherwise preventing or controlling emissions capable of causing any such pollution.

(2) In this Act—

“activities” means activities of any nature, whether—

- (a) industrial or commercial or other activities, or
- (b) carried on on particular premises or otherwise,

and includes (with or without other activities) the depositing, keeping or disposal of any substance;

“environmental pollution” means pollution of the air, water or land which may give rise to any harm; and for the purposes of this definition (but without prejudice to its generality)—

- (a) “pollution” includes pollution caused by noise, heat or vibrations or any other kind of release of energy, and

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- (b) “air” includes air within buildings and air within other natural or man-made structures above or below ground.
- (3) In the definition of “environmental pollution” in subsection (2), “harm” means—
  - (a) harm to the health of human beings or other living organisms;
  - (b) harm to the quality of the environment, including—
    - (i) harm to the quality of the environment taken as a whole,
    - (ii) harm to the quality of the air, water or land, and
    - (iii) other impairment of, or interference with, the ecological systems of which any living organisms form part;
  - (c) offence to the senses of human beings;
  - (d) damage to property; or
  - (e) impairment of, or interference with, amenities or other legitimate uses of the environment (expressions used in this paragraph having the same meaning as in Council Directive 96/61/EC).

## 2 Regulation of polluting activities.

- (1) The Secretary of State may by regulations make provision for any of the purposes listed in Part I of Schedule 1; and Part II of that Schedule has effect for supplementing Part I.
- (2) In accordance with subsection (1) of section 1, the provision which may be made by regulations under this section is provision for or in connection with any of the matters mentioned in paragraphs (a) to (c) of that subsection.
- (3) Regulations under this section may—
  - (a) contain such consequential, incidental, supplementary, transitional or saving provisions (including provisions amending, repealing or revoking enactments) as the Secretary of State considers appropriate; and
  - (b) make different provision for different cases, including different provision in relation to different persons, circumstances, areas or localities.
- (4) Before making any regulations under this section, the Secretary of State shall consult—
  - (a) the Environment Agency if the regulations are to apply in relation to England<sup>F1</sup> ...;
  - [<sup>F2</sup>(aa) the Natural Resources Body for Wales if the regulations are to apply in relation to Wales;]
  - (b) the Scottish Environment Protection Agency if the regulations are to apply in relation to Scotland;
  - (c) such bodies or persons appearing to him to be representative of the interests of local government, industry, agriculture and small businesses respectively as he may consider appropriate; and
  - (d) such other bodies or persons as he may consider appropriate.
- (5) Consultation undertaken before the passing of this Act shall constitute as effective compliance with subsection (4) as if undertaken after that passing.
- (6) The power to make regulations under this section shall be exercised by statutory instrument.

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- (7) A statutory instrument containing regulations under this section, if made without a draft having been laid before, and approved by a resolution of, each House of Parliament, shall be subject to annulment in pursuance of a resolution of either House.
- (8) No regulations to which this subsection applies shall be made (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (9) Subsection (8) applies to—
- (a) the first regulations to be made under this section which apply in relation to England;
  - (b) the first regulations to be made under this section which apply in relation to Wales;
  - (c) the first regulations to be made under this section which apply in relation to Scotland;
  - (d) regulations under this section which create an offence or increase a penalty for an existing offence;
  - (e) regulations under this section which amend or repeal any provision of an Act.

#### Textual Amendments

- F1** Words in s. 2(4)(a) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 395\(2\)](#) (with Sch. 7)
- F2** S. 2(4)(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 395\(3\)](#) (with Sch. 7)

#### Modifications etc. (not altering text)

- C1** S. 2: transfer of functions (1.1.2006) by [National Assembly for Wales \(Transfer of Functions\) Order 2005 \(S.I. 2005/1958\)](#), arts. 1(1), 3
- C2** S. 2: transfer of functions (10.7.2008) by [Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2008 \(S.I. 2008/1776\)](#), arts. 1(1), 2, [Sch.](#)

### 3 Prevention etc. of pollution after accidents involving offshore installations.

- (1) The Secretary of State may, in relation to offshore installations, by regulations make provision which, subject to any modifications that he considers appropriate, corresponds or is similar to any provision made by, or capable of being made under, sections 137 to 140 of the <sup>M1</sup>Merchant Shipping Act 1995 (powers to prevent and reduce pollution, and the risk of pollution, by oil or other substances following an accident) in relation to ships.
- (2) In this section—
- “offshore installation” means any structure or other thing (but not a ship) in or under—
- (a) United Kingdom territorial waters, or
  - (b) any waters mentioned in section 7(9)(b) or (c),
- which is used for the purposes of, or in connection with, the exploration, development or production of petroleum;
- “petroleum” has the meaning given by section 1 of the <sup>M2</sup>Petroleum Act 1998;

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“ship” has the same meaning as in the Merchant Shipping Act 1995.

- (3) Regulations under this section may—
- (a) contain such consequential, incidental, supplementary, transitional or saving provisions as the Secretary of State considers appropriate; and
  - (b) make different provision for different cases, including different provision in relation to different persons, circumstances, areas or localities.
- (4) Before making any regulations under this section, the Secretary of State shall consult—
- (a) the Environment Agency<sup>[F3]</sup>, the Natural Resources Body for Wales], the Scottish Environment Protection Agency and the Department of the Environment for Northern Ireland;
  - (b) such bodies or persons appearing to him to be representative of the interests of owners or operators of offshore installations as he may consider appropriate; and
  - (c) such other bodies or persons as he may consider appropriate.
- (5) The power to make regulations under this section shall be exercised by statutory instrument.
- (6) No regulations shall be made under this section (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

#### Textual Amendments

**F3** Words in s. 3(4)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 396](#) (with Sch. 7)

#### Marginal Citations

**M1** 1995 c. 21

**M2** 1998 c. 17.

## 4 Time-limited disposal or waste management licences.

[<sup>F4</sup>(1) Where—

- (a) a disposal licence under section 5 of the 1974 Act became a site licence by virtue of section 77(2) of the 1990 Act (conversion, on the appointed day, of existing disposal licence under section 5 of the 1974 Act into a site licence),
- (b) the licence has expired at a time (“the time of expiry”) falling before the day on which this Act is passed but not earlier than the appointed day,
- (c) the licence authorised the carrying on of activities in or on land in England or Wales, and
- (d) relevant activities have taken place at a time falling not more than one year before the day on which this Act is passed,

the licence shall (subject to subsection (7)) for all purposes be deemed not to have expired but to have become, at the time of expiry, a site licence continuing in force in accordance with section 35(11) of the 1990 Act.

(2) Subsection (3) applies where—

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- (a) a disposal licence under section 5 of the 1974 Act expired at a time (“the time of expiry”) falling before the appointed day (so that it was not converted into a site licence by section 77(2) of the 1990 Act),
  - (b) the licence authorised the carrying on of activities in or on land in England or Wales, and
  - (c) relevant activities have taken place at a time falling not more than one year before the day on which this Act is passed.
- (3) The licence shall (subject to subsection (7)) for all purposes be deemed—
- (a) not to have expired, and
  - (b) to have been subsisting on the appointed day and (accordingly) to have become on that day a site licence by virtue of section 77(2) of the 1990 Act, and the site licence which the licence is deemed to have become on that day shall for all purposes be deemed to have been one that continues in force in accordance with section 35(11) of the 1990 Act.
- (4) Where—
- (a) a site licence in force immediately before the day on which this Act is passed
    - (i) became a site licence by virtue of section 77(2) of the 1990 Act, and
    - (ii) will expire on or after the day on which this Act is passed (if it has not previously been revoked entirely, or had its surrender accepted, under Part II of the 1990 Act), and
  - (b) relevant activities have taken place at a time falling not more than one year before that day,
- the licence shall for all purposes be deemed to have become at the beginning of that day a site licence continuing in force in accordance with section 35(11) of the 1990 Act.
- (5) Where subsection (1), (3) or (4) has effect in relation to a licence, the terms and conditions of the licence as continued in force by that subsection shall, except so far as providing for the expiry of the licence and subject to subsection (6)(b) and (c), be such as were in force immediately before the relevant time (unless and until varied under Part II of the 1990 Act); and “the relevant time” means—
- (a) where subsection (1) or (3) has effect in relation to a licence, the time of expiry;
  - (b) where subsection (4) has effect in relation to a licence, the beginning of the day on which this Act is passed.
- (6) Where subsection (1) or (3) has effect in relation to a licence (but without prejudice to the generality of that subsection)—
- (a) activities carried out during the interim period which (by virtue of subsection (1) or (3)) become authorised by the licence shall be treated as authorised at the time they were carried out (even though at that time their being carried out amounted to a contravention of section 33(1)(a) or (b) of the 1990 Act or section 3(1) of the 1974 Act);
  - (b) anything done in relation to the licence before the time of expiry but purporting to take effect after that time (such as the serving of a notice under section 37(4) or 38(12) of the 1990 Act, or in pursuance of section 7 of the 1974 Act, specifying a time falling during or after the interim period) shall be treated as having had (or having) effect as if the licence had not in fact expired;

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- (c) anything which during the interim period purported to be done in relation to the licence (such as a modification of the licence or the revocation, suspension, transfer or acceptance of the surrender of the licence or the carrying out of consultation, exercise of functions under section 9 of the 1974 Act or section 42 of the 1990 Act, imposition of requirements during a suspension or bringing or determination of an appeal) shall be treated as having had effect as if the licence had then been in force;
  - (d) any fees which (by virtue of subsection (1) or (3)) are treated as having become payable before the passing of this Act shall be taken to have become payable at the time they would have become payable had the licence not in fact expired; and
  - (e) the holder of the licence shall be treated as having been, during the interim period, an authorised person for the purposes of section 34(1)(c) of the 1990 Act.
- (7) Where subsection (1) or (3) has effect in relation to a licence, a person shall not be guilty of an offence under section 33(6) or 38(10) or (11) of the 1990 Act as a result of anything done or omitted to be done during the interim period becoming (by virtue of subsection (1) or (3)) a contravention of any condition of the licence or (as the case may be) a failure to comply with any requirement imposed under section 38(9) of the 1990 Act.
- (8) Nothing in this section affects any criminal proceedings which have been concluded before the passing of this Act.
- (9) The waste regulation authority (within the meaning given by section 30(1) of the 1990 Act) shall notify the holder of a licence affected by this section of the fact that the licence is so affected and of how it is so affected.
- (10) For the purposes of this section “relevant activities”, in relation to a licence, are—
- (a) any activities authorised by the licence or, in the case of an expired licence, any which would have been authorised by it had it not expired, and
  - (b) any precautions or works required by the licence to be taken or carried out in connection with or in consequence of those activities or, in the case of an expired licence, any which would have been so required had the licence not expired.
- (11) In this section—
- “the 1974 Act” means the Control of Pollution Act 1974;
  - “the 1990 Act” means the Environmental Protection Act 1990;
  - “the appointed day”, in relation to a licence, means the day which in relation to that licence is (or would have been if the licence had not previously expired) the relevant appointed day for licences (within the meaning of section 77 of the 1990 Act);
  - “the interim period”, in connection with a licence in relation to which subsection (1) or (3) has effect, means the period beginning with the time of expiry and ending immediately before the day on which this Act is passed;
  - “site licence” has the same meaning as it has in Part II of the 1990 Act by virtue of section 35(12) of that Act.]

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#### Textual Amendments

- F4** S. 4 repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), Sch. 21 para. 26, **Sch. 23** (with reg. 72, Sch. 4)

## 5 Application to Wales and Scotland.

- (1) Subsection (2) applies to an Order in Council under section 22 of the <sup>M3</sup>Government of Wales Act 1998 (transfer of Ministerial functions) if the Order in Council contains a statement that it makes no provision which is not—
- provision about functions under this Act; or
  - provision in connection with such provision.
- (2) An Order in Council to which this subsection applies—
- shall not be subject to subsection (4)(a) of that section (affirmative resolution of both Houses of Parliament); but
  - shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) For the purposes of the <sup>M4</sup>Scotland Act 1998, this Act shall be taken to be a pre-commencement enactment within the meaning of that Act.

#### Marginal Citations

- M3** 1998 c. 38.  
**M4** 1998 c. 46.

## <sup>F5</sup>6 Consequential and minor amendments and repeals.

- (1) The consequential and minor amendments specified in Schedule 2 shall have effect.
- (2) The enactments specified in Schedule 3 are repealed to the extent specified.

#### Textual Amendments

- F5** S. 6(1) amended (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), s. 206(b)

#### Commencement Information

- II** S. 6 partly in force; s. 6 not in force at Royal Assent see s. 7(3); s. 6(1) in force (E.W.) (21.3.2000) by [S.I. 2000/800](#), art. 2; s. 6(1) in force (S.) for certain purposes at 29.9.2000 by [S.S.I. 2000/322](#), art. 2(a)

## 7 Short title, interpretation, commencement and extent.

- (1) This Act may be cited as the Pollution Prevention and Control Act 1999.
- (2) In this Act—
- “enactment” includes an enactment comprised in subordinate legislation within the meaning of the <sup>M5</sup>Interpretation Act 1978;

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“modifications” includes additions, alterations and omissions and “modify” shall be construed accordingly.

- (3) Section 6 and Schedules 2 and 3 shall not come into force until such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be so appointed for different purposes.
- (4) An order under subsection (3) may contain such consequential, incidental, supplementary, transitional or saving provisions (including provisions modifying enactments) as the Secretary of State considers appropriate.
- (5) This section and sections 3 and 5 extend to Northern Ireland but, subject to subsections (6) to (8), the other provisions of this Act do not extend there.
- (6) The amendment by this Act of any enactment extending to Northern Ireland also extends there.
- (7) The repeal by this Act of any enactment extending to Northern Ireland, except section 3(5) to (7) of the <sup>M6</sup>Environmental Protection Act 1990, also extends there.
- (8) Where an enactment extending to Northern Ireland is amended or repealed by any regulations or order under this Act, the regulations or order may provide for the amendment or repeal to extend to Northern Ireland.
- (9) Regulations and orders under this Act may make provision applying in relation to (and to places above and below)—
  - (a) the territorial waters adjacent to any part of the United Kingdom,
  - (b) the sea in any designated area within the meaning of the <sup>M7</sup>Continental Shelf Act 1964, and
  - (c) the sea in any area specified under section 10(8) of the <sup>M8</sup>Petroleum Act 1998.

#### Subordinate Legislation Made

- P1** [S. 7\(2\)](#) power partly exercised (20.3.2000): 21.3.2000 appointed for specified provisions by [S.I. 2000/800, art. 2](#)
- [S. 7\(2\)](#) power partly exercised (14.9.2000) : 29.9.2000 appointed for specified provisions by [S.I. 2000/322, art. 2](#)
- [S. 7\(2\)](#) power partly exercised (14.9.2000): 29.9.2000 appointed for specified provisions by [S.S.I. 2000/322, art. 2](#)

#### Marginal Citations

- M5** 1978 c. 30.
- M6** 1990 c. 43.
- M7** 1964 c. 29.
- M8** 1998 c. 17.



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## SCHEDULES

### SCHEDULE 1

Section 2.

#### PARTICULAR PURPOSES FOR WHICH PROVISION MAY BE MADE UNDER SECTION 2

#### 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) Determining the authorities (whether public or local or the Secretary of State) by whom 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 (in this Schedule referred to as “regulators”).
- (2) Specifying any purposes for which any such functions are to be exercisable by regulators.
- 3 Enabling the Secretary of State to give directions which regulators are to comply with, or guidance which regulators are to have regard to, in exercising functions under the regulations, including—
  - (a) directions providing for any functions exercisable by one regulator to be instead exercisable by another;
  - (b) directions given for the purposes of the implementation of any obligations of the United Kingdom under the [F<sup>6</sup>EU] 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.

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### Textual Amendments

**F6** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3), 4(2), 6(4)(5))

#### *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 regulators.
  - (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 regulators (whether periodically or in any specified circumstances).
  - (2) Authorising or requiring the variation of permits or such conditions by regulators (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 regulators.
  - (3) Authorising the imposition by regulators 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 Secretary of State to make schemes for the charging by regulators 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.

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- [<sup>F7</sup>9A<sup>F8</sup>(1) Authorising the Secretary of State to make schemes for the charging by regulators of charges, as respects functions in relation to offshore installations, corresponding to those that may be prescribed under section 41A of the Environment Act 1995.]
- (2) Subsections (2) to (5) of section 41A of that Act apply in relation to the Secretary of State and a charging scheme made by virtue of this paragraph as they apply in relation to the Scottish Environment Protection Agency and a charging scheme made by that Agency under the 1995 Act.
- (3) In this paragraph [<sup>F9</sup>“offshore installation” has”] the same meaning as in the Greenhouse Gas Emissions Trading Scheme Regulations 2005.]

#### Textual Amendments

- F7** Sch. 1 para. 9A inserted (21.4.2005) by [The Greenhouse Gas Emissions Trading Scheme Regulations 2005 \(S.I. 2005/925\)](#), art. 1, **Sch. 6 para. 2(2)(a)** (with reg. 3)
- F8** Sch. 1 para. 9A(1) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **16(a)**
- F9** Words in Sch. 1 para. 9A(3) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **16(b)**

- 10 Authorising, or authorising a Minister of the Crown to make schemes for, the charging by Ministers of the Crown or public or local authorities 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 regulators maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be,

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- 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 regulators 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.

#### *Enforcement and offences*

- 14 (1) Conferring on regulators 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 regulators to appoint suitable persons to exercise any such functions and conferring powers (such as those specified in section 108(4) of the <sup>M9</sup>Environment Act 1995) on persons so appointed.

#### **Marginal Citations**

**M9** 1995 c. 25.

- 15 (1) Authorising regulators 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 regulators 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 or any court of competent jurisdiction in Scotland.
- 16 Authorising regulators 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) a regulator to arrange for such action to be taken at that person's expense.

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### *Appeals*

- 19 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).

### *General*

- 20 (1) Making provision which, subject to any modifications that the Secretary of State considers appropriate, corresponds or is similar to—
- (a) any provision made by or under, or capable of being made under, Part I or II of the <sup>M10</sup>Environmental Protection Act 1990 or made by any of sections 157, 158 and 160 of that Act; or
  - (b) any provision made, or capable of being made, under section 2(2) of the <sup>M11</sup>European Communities Act 1972 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;
  - (b) Council Directive [75/442/EEC](#) on waste, as amended; and
  - (c) any other directive of the Council of [<sup>F10</sup>the European Union] designated by the Secretary of State for the purposes of this paragraph by order made by statutory instrument.
- (3) Making provision about the application of the regulations to the Crown.

#### **Textual Amendments**

**F10** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011](#) (S.I. 2011/1043), arts. 2, 3, 4 (with art. 3(2)(3)4(2)6(4)6(5))

#### **Modifications etc. (not altering text)**

**C3** Sch. 1 para. 20(2)(c): transfer of functions (10.7.2008) by [Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2008](#) (S.I. 2008/1776), arts. 1(1), 2, **Sch.**

#### **Marginal Citations**

**M10** 1990 c. 43.

**M11** 1972 c. 68.

## **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.

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*Changes to legislation: There are currently no known outstanding effects for the  
 Pollution Prevention and Control Act 1999. (See end of Document for details)*

### *[<sup>F11</sup>Emissions quota trading schemes: penalties*

#### **Textual Amendments**

**F11** Sch. 1 para. 21A and preceding cross-heading inserted (13.11.2003) by [Waste and Emissions Trading Act 2003 \(c. 33\)](#), **ss. 38, 40**

- 21A (1) The regulations may authorise the inclusion in a trading scheme of—
- (a) provision for penalties in respect of contraventions of provisions of the scheme;
  - (b) provision for the amount of any penalty under the scheme to be such as may be set out in, or calculated in accordance with—
    - (i) the scheme, or
    - (ii) the regulations (including regulations made after the scheme).
- (2) In this paragraph “ trading scheme ” means a scheme of the kind mentioned in paragraph 1(3). ]

### *Determination of matters by regulators*

- 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 regulators.

### *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 a regulator 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—
- (a) require any such scheme as is mentioned in paragraph 9<sup>[F12, 9A]</sup> 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 regulator or other person to whom they are so payable) as is specified;
  - (b) authorise any such scheme to make different provision for different cases (and specify particular kinds of such cases).

#### **Textual Amendments**

**F12** Word in [Sch. 1 para. 24](#) inserted (21.4.2005) by [The Greenhouse Gas Emissions Trading Scheme Regulations 2005 \(S.I. 2005/925\)](#), art. 1, **Sch. 6 para. 2(2)(b)** (with reg. 3)

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### 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 [<sup>F13</sup>six months][<sup>F13</sup>12 months]), or
    - (ii) a fine not exceeding such amount as is specified (which may not exceed [<sup>F14</sup>£20,000][<sup>F14</sup>£50,000][<sup>F15</sup>£40,000]),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.

#### Textual Amendments

- F13** Words in Sch. 1 para. 25(2)(a)(i) substituted (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 105\(1\)\(a\), 108\(4\)](#) (with s. 105(2))
- F14** Word in Sch. 1 para. 25(2)(a)(ii) substituted (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 105\(1\)\(b\), 108\(4\)](#) (with s. 105(2))
- F15** Word in Sch. 1 para. 25(2)(a)(ii) substituted (S.) (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\), s. 145\(2\), Sch. 2 para. 5; S.S.I. 2004/420, art. 3, Sch. 1](#)

### Interpretation

- 26 In this Schedule—
- “functions” includes powers and duties;
  - “the regulations” means regulations under section 2;
  - “specified” means specified in regulations under that section.

## SCHEDULE 2

Section 6.

### CONSEQUENTIAL AND MINOR AMENDMENTS

#### *Prevention of Oil Pollution Act 1971 (c.60)*

- 1 In section 11A(1) of the Prevention of Oil Pollution Act 1971 (provisions of Act not to apply to escapes etc. authorised by Part I of the Environmental Protection Act 1990)—
- (a) for “(2A), 3(1) and 11(1)” substitute “ 3(1) ”; and
  - (b) at the end insert “ or a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999. ”

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**Commencement Information**

- I2** Sch. 2 para. 1 wholly in force; Sch. 2 para. 1 not in force at Royal Assent see s. 7(3); Sch. 2 para. 1 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 1 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

*Public Health (Control of Disease) Act 1984 (c.22)*

- 2 In section 7(4) of the Public Health (Control of Disease) Act 1984 (enactments conferring functions assignable to the London port health authority), after paragraph (m) insert—
- “(n) regulations under section 2 of the Pollution Prevention and Control Act 1999.”

**Commencement Information**

- I3** Sch. 2 para. 2 partly in force; Sch. 2 para. 2 not in force at Royal Assent see s. 7(3); Sch. 2 para. 2 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2

*Environmental Protection Act 1990 (c.43)*

- 3 The Environmental Protection Act 1990 has effect subject to the following amendments.

**Commencement Information**

- I4** Sch. 2 para. 3 wholly in force; Sch. 2 para. 3 not in force at Royal Assent see s. 7(3); Sch. 2 para. 3 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 3 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

- 4 In section 8(7) (expenditure to be covered by charging schemes under the section is that of local enforcing authorities in exercising their functions under Part I of the Act), at the end insert “together with the expenditure incurred by the Environment Agency in exercising, in relation to authorisations granted by local enforcing authorities or the prescribed processes to which such authorisations relate, such of its functions as are specified in the scheme.”

**Commencement Information**

- I5** Sch. 2 para. 4 partly in force; Sch. 2 para. 4 not in force at Royal Assent see s. 7(3); Sch. 2 para. 4 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2

- 5 <sup>[F16]</sup>In section 77(2) (waste disposal licences: transition from Part I of the <sup>M12</sup>Control of Pollution Act 1974), at the beginning insert “Subject to section 4 of the Pollution Prevention and Control Act 1999, ”.]



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**Changes to legislation:** There are currently no known outstanding effects for the Pollution Prevention and Control Act 1999. (See end of Document for details)

#### Textual Amendments

- F16** Sch. 2 para. 5 repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), [Sch. 23](#) (with reg. 72, Sch. 4)

#### Commencement Information

- I6** Sch. 2 para. 5 wholly in force; Sch. 2 para. 5 not in force at Royal Assent see s. 7(3); Sch. 2 para. 5 in force (E.W.) at 21.3.2000 by [S.I. 2000/800](#), [art. 2](#); Sch. 2 para. 5 in force (S.) at 29.9.2000 by [S.S.I. 2000/322](#), [art. 2\(b\)](#)

#### Marginal Citations

- M12** 1974 c. 40.

- 6 In section 79(10) (restrictions on taking proceedings for statutory nuisance where proceedings possible under Part I of the Act), after “Part I” insert “ or under regulations under section 2 of the Pollution Prevention and Control Act 1999. ”

#### Commencement Information

- I7** Sch. 2 para. 6 wholly in force; Sch. 2 para. 6 not in force at Royal Assent see s. 7(3); Sch. 2 para. 6 in force (E.W.) at 21.3.2000 by [S.I. 2000/800](#), [art. 2](#); Sch. 2 para. 6 in force (S.) at 29.9.2000 by [S.S.I. 2000/322](#), [art. 2\(b\)](#)

#### *Water Industry Act 1991 (c.56)*

- 7 In paragraph (a) of each of subsections (3) and (4) of section 206 of the Water Industry Act 1991 (exceptions from restrictions on disclosure of information), for “or the <sup>M13</sup>Environment Act 1995” substitute “ , the Environment Act 1995 or regulations under section 2 of the Pollution Prevention and Control Act 1999 ”.

#### Commencement Information

- I8** Sch. 2 para. 7 partly in force; Sch. 2 para. 7 not in force at Royal Assent see s. 7(3); Sch. 2 para. 7 in force (E.W.) at 21.3.2000 by [S.I. 2000/800](#), [art. 2](#)

#### Marginal Citations

- M13** 1995 c. 25.

#### *Water Resources Act 1991 (c.57)*

- 8 In paragraph (a) of each of subsections (2) and (3) of section 204 of the Water Resources Act 1991 (exceptions from restrictions on disclosure of information), for “or the 1995 Act” substitute “ , the 1995 Act or regulations under section 2 of the Pollution Prevention and Control Act 1999 ”.

#### Commencement Information

- I9** Sch. 2 para. 8 partly in force; Sch. 2 para. 8 not in force at Royal Assent see s. 7(3); Sch. 2 para. 8 in force (E.W.) at 21.3.2000 by [S.I. 2000/800](#), [art. 2](#)

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### *Clean Air Act 1993 (c.11)*

9 The Clean Air Act 1993 has effect subject to the following amendments.

#### **Commencement Information**

**I10** Sch. 2 para. 9 wholly in force; Sch. 2 para. 9 not in force at Royal Assent see s. 7(3); Sch. 2 para. 9 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 9 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

10 In section 33(1) (cable burning), after “a process subject to Part I of the Environmental Protection Act 1990” insert “ or an activity subject to regulations under section 2 of the Pollution Prevention and Control Act 1999 ”.

#### **Commencement Information**

**I11** Sch. 2 para. 10 wholly in force; Sch. 2 para. 10 not in force at Royal Assent see s. 7(3); Sch. 2 para. 10 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 10 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

11 In section 35(3) (limit on investigations into emissions from certain processes), after “any process subject to Part I of the Environmental Protection Act 1990” insert “ or activity subject to regulations under section 2 of the Pollution Prevention and Control Act 1999 ”.

#### **Commencement Information**

**I12** Sch. 2 para. 11 wholly in force; Sch. 2 para. 11 not in force at Royal Assent see s. 7(3); Sch. 2 para. 11 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 11 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

### *Railways Act 1993 (c.43)*

12 In section 4(9) of the Railways Act 1993 (interpretation), for the definition of “environment” substitute—

““the environment” means all, or any, of the following media, namely, the air, water and land (and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground);”.

#### **Commencement Information**

**I13** Sch. 2 para. 12 wholly in force; Sch. 2 para. 12 not in force at Royal Assent see s. 7(3); Sch. 2 para. 12 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 12 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

### *Merchant Shipping Act 1995 (c.21)*

13 After section 136 of the Merchant Shipping Act 1995 (oil pollution) insert—

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### “136A Discharges etc. authorised under other enactments.

The provisions of sections 131(1) and 136(1) shall not apply to any discharge which is made under, and the provisions of section 136(1) shall not apply to any escape which is authorised by, an authorisation granted under Part I of the <sup>M14</sup>Environmental Protection Act 1990 or a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999.”

#### Commencement Information

**I14** Sch. 2 para. 13 partly in force; Sch. 2 para. 13 not in force at Royal Assent see s. 7(3); Sch. 2 para. 13 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2

#### Marginal Citations

**M14** 1990 c. 43.

### *Environment Act 1995 (c.25)*

14 The Environment Act 1995 has effect subject to the following amendments.

#### Commencement Information

**I15** Sch. 2 para. 14 wholly in force; Sch. 2 para. 14 not in force at Royal Assent see s. 7(3); Sch. 2 para. 14 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 14 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

15 In section 5(5) (pollution control powers and functions), after paragraph (h) insert—  
“(i) regulations under section 2 of the Pollution Prevention and Control Act 1999;”.

#### Commencement Information

**I16** Sch. 2 para. 15 partly in force; Sch. 2 para. 15 not in force at Royal Assent see s. 7(3); Sch. 2 para. 15 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2

16 In section 33(5) (pollution control powers and functions in Scotland), before the word “and” at the end of paragraph (g) insert—  
“(ga) regulations under section 2 of the Pollution Prevention and Control Act 1999;”.

#### Commencement Information

**I17** Sch. 2 para. 16 wholly in force; Sch. 2 para. 16 not in force at Royal Assent see s. 7(3); Sch. 2 para. 16 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 16 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

17 In section 56(1) (interpretation of Part I), for the definition of “the environment” substitute—

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““the environment” means all, or any, of the following media, namely, the air, water and land (and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground);”.

**Commencement Information**

**I18** Sch. 2 para. 17 wholly in force; Sch. 2 para. 17 not in force at Royal Assent see s. 7(3); Sch. 2 para. 17 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 17 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

18 (1) Section 113(5) (disclosure of information: interpretation) is amended as follows.

(2) For the definition of “the environment” substitute—

““the environment” means all, or any, of the following media, namely, the air, water and land (and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground);”.

(3) In the definition of “local enforcing authority”, at the end of paragraph (b) insert “or”.

**Commencement Information**

**I19** Sch. 2 para. 18 wholly in force; Sch. 2 para. 18 not in force at Royal Assent see s. 7(3); Sch. 2 para. 18 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2; Sch. 2 para. 18 in force (S.) at 29.9.2000 by S.S.I. 2000/322, art. 2(b)

*Finance Act 1996 (c.8)*

<sup>F17</sup>19 In section 66 of the Finance Act 1996 (landfill tax: definition of landfill site), after paragraph (b) insert—

“(ba) a permit under regulations under section 2 of the Pollution Prevention and Control Act 1999 is in force in relation to the land and authorises deposits or disposals in or on the land.”.

**Textual Amendments**

**F17** Sch. 2 para. 19 amended (17.7.2012) by Finance Act 2012 (c. 14), s. 206(a)

**Commencement Information**

**I20** Sch. 2 para. 19 partly in force; Sch. 2 para. 19 not in force at Royal Assent see s. 7(3); Sch. 2 para. 19 in force (E.W.) at 21.3.2000 by S.I. 2000/800, art. 2

*Government of Wales Act 1998 (c.38)*

<sup>F18</sup>20 .....

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### Textual Amendments

**F18** Sch. 2 para. 20 repealed by [Government of Wales Act 2006 \(c. 32\)](#), s. 163, Sch. 12 (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(1)(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(4)(5) of the amending Act.

VALID FROM 01/04/2015

## SCHEDULE 3

### REPEALS

#### Extent Information

**E1** For extent of repeals see s. 7(7).

Chapter	Short title	Extent of repeal
1971 c. 60.	Prevention of Oil Pollution Act 1971.	In section 11A(1), the words "an authorisation granted under Part I of the Environmental Protection Act 1990 or".
1984 c. 22.	Public Health (Control of Disease) Act 1984.	Section 7(4)(l).
1990 c. 43.	Environmental Protection Act 1990.	Sections 1 to 28. <b>F19</b> ... Schedule 1.
1991 c. 56.	Water Industry Act 1991.	Section 138(2) to (4). In section 206(3)(a), "I or". In section 206(4)(a), "I or".
1991 c. 57.	Water Resources Act 1991.	Section 88(1)(b). In section 204(2)(a), "I or". In section 204(3)(a), "I or".
1991 c. 60.	Water Consolidation (Consequential Provisions) Act 1991.	In Schedule 1, paragraph 56.
1993 c. 11.	Clean Air Act 1993.	In section 33(1), the words "a process subject to Part I of the Environmental Protection Act 1990 or". In section 35(3), the words "process subject to Part

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		I of the Environmental Protection Act 1990 or”. Section 36(3). Section 41.
1993 c. 12.	Radioactive Substances Act 1993.	In Schedule 4, paragraph 6.
1994 c. 19.	Local Government (Wales) Act 1994.	In Schedule 9, paragraph 17(1).
1995 c. 21.	Merchant Shipping Act 1995.	In section 136A, the words “an authorisation granted under Part I of the Environmental Protection Act 1990 or”.
1995 c. 25.	Environment Act 1995.	In section 5(5)(e), “I,”. In section 33(5)(e), “I,”. In section 56(1), paragraph (b) of the definition of “environmental licence” in relation to the Environment Agency and paragraph (c) of the definition of “environmental licence” in relation to the Scottish Environment Protection Agency. In section 108(15)— paragraph (a) of the definition of “local enforcing authority”, in paragraph (g) of the definition of “pollution control functions” in relation to the Environment Agency or the Scottish Environment Protection Agency, “I,”, and in paragraph (a) of the definition of “pollution control functions” in relation to a local enforcing authority, “I or”. Section 111(6). In section 113(5), in the definition of “local enforcing authority”, paragraph (d) and the “or” preceding it. In section 114(2)(a)(iii), “15, 22(5),”. In Schedule 20, in paragraph 4(3)(b), “22(5),”.

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1996 c. 8.	Finance Act 1996.	In Schedule 22, paragraphs 45 to 61.
1998 c. 38.	Government of Wales Act 1998.	Section 43A(4)(b) to (d). In Schedule 3, paragraph 6(3)(a).
<hr/>		
<p><b>Textual Amendments</b></p> <p><b>F19</b> Words in <a href="#">Sch. 3</a> repealed (30.6.2014) by <a href="#">Regulatory Reform (Scotland) Act 2014 (asp 3)</a>, s. 61(2), <a href="#">Sch. 3 para. 36</a>; <a href="#">S.S.I. 2014/160</a>, art. 2(1)(2), <a href="#">Sch.</a></p>		

**Status:**

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**Changes to legislation:**

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