

SCHEDULE 1

Regulation 19

AMENDMENT OF THE OFFSHORE COMBUSTION INSTALLATIONS
(PREVENTION AND CONTROL OF POLLUTION) REGULATIONS 2001

1. In regulation 2 (interpretation), omit the definitions of “address” and “electronic communication”.
2. For regulation 6 (fees), substitute—

“Fees

6.—(1) The Secretary of State may, in accordance with a charging scheme made by her for this purpose, charge operators fees in respect of any of the matters to which this paragraph applies.

(2) The matters to which paragraph (1) applies are—

- (a) the grant of a permit;
- (b) the variation of a permit or of the conditions to which it is subject;
- (c) the revocation, surrender or assignment of a permit;
- (d) the subsistence of a permit;
- (e) the testing or analysis of substances;
- (f) the validity of, or of the results of, any testing or analysis of substances; and
- (g) the assessment of the effect upon the environment of the operation of any qualifying offshore combustion installation,

but paragraph (1) only applies to the matters referred to in sub-paragraphs (e) to (g) in cases where the testing, analysis, validating or assessment is in any way in anticipation of, or otherwise in connection with, the making of permit applications or is carried out in pursuance of conditions to which any permit is subject.

(3) A charging scheme made under this regulation shall be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure as may be incurred by or on behalf of the Secretary of State in connection with any of the matters to which paragraph (1) applies.”.

3. In regulation 9(4) omit the words “either” and “or by such electronic means as the Secretary of State may determine”.

4. In regulation 13 (appointment of inspectors)—

(1) in sub-paragraph (b) of paragraph (1) (which deals with inspectors' functions)—

- (a) for “as to”, substitute “to monitor”; and
- (b) insert “emissions from” after “operation of”;

(2) in paragraph (2) (which deals with inspectors' powers) omit “may” where first occurring in each of sub-paragraphs (h) to (k) of that paragraph;

(3) for paragraph (3) (which deals with the admissibility in evidence of answers to inspectors), substitute—

“(3) An answer given by a person in compliance with a requirement imposed under paragraph 2(i) shall be admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings or, in Scotland, against that person in criminal proceedings.

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(3A) In criminal proceedings in which such person as is mentioned in paragraph (3) is charged with an offence to which this paragraph applies no evidence relating to that person's answer may be adduced and no question relating to it may be asked by or on behalf of the prosecution unless evidence relating to it is adduced by or on behalf of that person.

(3B) Paragraph (3A) applies to any offence other than one under—

- (a) regulation 18(1)(f)(ii);
- (b) section 5 of the Perjury Act 1911⁽¹⁾ (false statements made otherwise than on oath);
- (c) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995⁽²⁾ (false statements made otherwise than on oath); or
- (d) article 10 of the Perjury (Northern Ireland) Order 1979⁽³⁾ (false statutory declarations and other false unsworn statements)."

5. In regulation 14 (enforcement notices)—

(1) in paragraph (1) (which deals with the conditions for service of an enforcement notice)—

- (a) for "the operator of an installation", substitute "any person";
- (b) insert "or an inspector appointed by him under regulation 13" after "the Secretary of State" where it appears for a second time;
- (c) for "on him"; substitute "on the operator";
- (d) for "notice", substitute "notice in writing"; and

(2) for paragraphs (3) and (4), substitute—

"(3) Where a person to whom an enforcement notice is addressed has failed to take the action required by it within such time as may be specified by it and such a notice has not been revoked, the Secretary of State may undertake any action so required and the reasonable costs and expenses of the Secretary of State's so doing shall be recoverable as a debt from that person.

(4) A person to whom an enforcement notice is addressed shall afford such assistance as the Secretary of State may reasonably require for the purpose of facilitating the exercise of any powers conferred on the Secretary of State by paragraph (3).

(4A) The Secretary of State or an inspector appointed by the Secretary of State under regulation 13 may revoke an enforcement notice served under paragraph (1)."

6. In regulation 15 (prohibition notices)—

(1) for paragraph (1) substitute—

"(1) If the Secretary of State is of the opinion that the operation of a qualifying offshore combustion installation involves an imminent risk of serious pollution, the Secretary of State or an inspector appointed by him under regulation 13 may serve a notice in writing ("a prohibition notice") on the operator of the installation."; and

(2) for paragraph (4) substitute—

"(4) The Secretary of State or an inspector appointed by him under regulation 13 may by notice withdraw a prohibition notice wholly or in part at any time and shall withdraw a notice when the Secretary of State is satisfied that the steps required by the notice have been taken."

7. For regulation 19 substitute—

(1) 1911 c. 6.
(2) 1995 c. 39.
(3) 1979 No. 1714 (NI19).

“Service of Notices

19.—(1) In this regulation—

“electronic communication” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“written document” includes an application, a permit, information, data, evidence, a representation or a notice under these Regulations.

(2) A written document may be sent, given or issued to the intended recipient by—

- (a) delivering it to him; or
- (b) leaving it at his proper address; or
- (c) sending it by post to him at that address.

(3) A written document may be sent, given or issued—

- (a) to a body corporate by being sent, given or issued to its secretary or clerk;
- (b) to a firm (including a Scottish partnership) by being sent, given or issued to a partner in the firm or to a person having management or control of the partnership business;
- (c) to an unincorporated body by being sent, given or issued to a member of its governing body.

(4) For the purposes of this regulation and of section 7 of the Interpretation Act 1978(4) in its application to this regulation, the proper address (except in a case falling within paragraph (7) of this regulation of—

- (a) the Secretary of State is the address of the principal office of the holder of the office of Secretary of State who for the time being exercises the functions of the Secretary of State under these Regulations;
- (b) a body corporate is the address of its registered or principal office;
- (c) a firm (including a Scottish partnership) or unincorporated body is the address of its principal office;
- (d) any other person is his last known address.

(5) Where, by virtue of the above provisions of this regulation, the proper address of the intended recipient of a written document is outside the United Kingdom, references in this regulation to the proper address of—

- (a) a body corporate, firm or unincorporated body include its principal office (if any) in the United Kingdom;
- (b) any other person include his last known address in the United Kingdom (unless he is known no longer to have an address in the United Kingdom).

(6) If the person to whom a written document is to be sent, given or issued has furnished the person by whom the written document is to be sent, given or issued with an address pursuant to any provision of these Regulations, that address shall also be treated for the purpose of this regulation as his proper address.

(7) Where a written document is to be sent, given or issued by means of an electronic communication, the proper address of any person includes the number or address which he has indicated is to be used by him for receipt of the communication.

(4) 1978 c. 30.

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(8) This regulation is without prejudice to any other lawful method of giving or serving notice.”.