

## SCHEDULE 21

### Consequential amendments

## PART 1

### Public General Acts

#### **Public Health Act 1961**

1. In section 34(5) of the Public Health Act 1961<sup>(1)</sup>, omit the words “or waste deposited in accordance with a disposal licence in force under Part I of the Control of Pollution Act 1974”.

#### **Environmental Protection Act 1990**

2. The Environmental Protection Act 1990<sup>(2)</sup> is amended (in relation to England and Wales) in accordance with paragraphs 3 to 18.

3.—(1) Section 29<sup>(3)</sup> is amended as follows.

(2) In subsection (9), omit the words “, subject to subsection (10) below”.

(3) Omit subsection (10).

(4) After subsection (11), add—

“(12) “The 2007 Regulations” means the Environmental Permitting (England and Wales) Regulations 2007.

(13) The following expressions have the same meaning as in the 2007 Regulations—

“environmental permit”;

“exempt waste operation”;

“waste operation”.”.

4.—(1) Section 33<sup>(4)</sup> is amended as follows.

(2) In subsection (1)—

(a) for “subsection (2) and (3) below” substitute “subsections (1A), (1B), (2) and (3) below”;

(b) in paragraph (a), for “a waste management licence” substitute “an environmental permit”, and for “the licence” substitute “the permit”;

(c) for paragraph (b), substitute—

“(b) submit controlled waste, or knowingly cause or knowingly permit controlled waste to be submitted, to any listed operation (other than an operation within subsection (1)(a)) that—

(i) is carried out in or on any land, or by means of any mobile plant, and

(ii) is not carried out under and in accordance with an environmental permit.”.

(3) After subsection (1), insert—

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(1) 1961, c. 64. Section 34(5) was amended by the Control of Pollution Act 1974 (c. 40), section 108 and Schedule 3.

(2) 1990, c. 43.

(3) Section 29 was amended by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 51.

(4) Section 33 was amended by the Environment Act 1995 (c. 25) section 120 and Schedule 22, the Clean Neighbourhoods and Environment Act (c. 16), sections 40(1), 41(1), 107 and Schedule 5, and S.I.2005/894 and 2006/937.

*Status: This is the original version (as it was originally made).*

“(1A) Paragraphs (a) and (b) of subsection (1) above do not apply in relation to a waste operation that is an exempt waste operation.

(1B) Subsection (1) does not apply in relation to the carrying on of any of the following activities—

- (a) the disposal of liquid waste under a consent under Chapter 2 of Part 3 of the Water Resources Act 1991;
- (b) a waste operation which is or forms part of an operation which—
  - (i) is the subject of a licence under Part 2 of the Food and Environment Protection Act 1985; or
  - (ii) by virtue of an order under section 7 of that Act, does not require such a licence;
- (c) the disposal of agricultural waste in or on land under an authorisation under regulation 18 of the Groundwater Regulations 1998.”

(4) In subsection (4) for “the controls imposed by waste management licences” substitute “the prohibitions in subsection (1)”.

(5) In subsection (6) omit the words “or any condition of a waste management licence”.

(6) After subsection (10), add—

“(11) For the purposes of subsection (1)(a) above, the deposit of waste in or on land includes any listed operation involving such a deposit.

(12) For the purposes of subsection (1)(c) above, treating, keeping or disposing of controlled waste includes submitting it to any listed operation.

(13) For the purposes of this section, a “listed operation” is an operation listed in Annex IIA or IIB of Directive [2006/12/EC](#) of the European Parliament and of the Council on waste”.

5. For section 33A(1)(5), substitute—

“(1) This section applies where a person is convicted of an offence—

- (a) under section 33 above, in respect of a contravention of subsection (1) of that section;
- (b) under regulation 38(1)(a) of the 2007 Regulations, in respect of a waste operation.”

6. For section 33B(1)(6), substitute—

“(1) This section applies where a person is convicted of an offence—

- (a) under section 33 above, in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste;
- (b) under regulation 38(1)(a) of the 2007 Regulations, in respect of a contravention of regulation 12 of those Regulations consisting of the disposal of waste.”

7.—(1) For section 33C(1)(7), substitute—

“(1) This section applies where—

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(5) Section 33A was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 42(1).

(6) Section 33B was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 43(1) and amended by S.I. 2006/937.

(7) Section 33C was inserted by the Clean Neighbourhoods Act 2005 (c. 16), section 44(1) and amended by S.I. 2006/937.

- (a) subject to subsection (1A) below, a person is convicted of an offence under section 33 above in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste;
  - (b) a person is convicted of an offence under regulation 38(1)(a) of the 2007 Regulations in respect of a contravention of regulation 12 of those Regulations consisting of the disposal of waste.”
- (2) In section 33C(7)(d), after “section 33 above,” insert “or regulation 38(1)(a) or 38(1)(b) of the 2007 Regulations,”.

**8.—(1)** Section 34(8) is amended as follows.

(2) For subsection (1)(aa) substitute—

“(aa) to prevent any contravention by any other person of regulation 12 of the 2007 Regulations or of a condition of an environmental permit;”.

(3) In subsection (1)(c)(ii) for “or any condition of a permit granted under regulation 10 of those Regulations” substitute “or regulation 12 of the 2007 Regulations, or a contravention of a condition of an environmental permit,”.

(4) For subsection (3)(b) substitute—

“(b) any person who is the holder of an environmental permit in relation to a waste operation;”.

(5) After subsection (3)(b), insert—

“(ba) any person who is carrying on an exempt waste operation;”.

**9.** In section 34B(9)—

- (a) in subsection (2)(a) after “committed” insert “, or an offence under regulation 38(1)(a) or (b) of the 2007 Regulations has been committed in relation to a waste operation”;
- (b) in subsection (3)(a) before “and” insert “or an offence under regulation 38(1)(a) or (b) of the 2007 Regulations is being or is about to be committed in relation to a waste operation,”.

**10.** Omit sections 35 to 43.

**11.** In section 44(10)—

- (a) in subsection (1)(a), omit “or”;
- (b) omit subsections (1)(b) and (2).

**12.** In section 44A(11), after subsection (8), insert—

“(8A) The Environment Agency shall publicise any direction given to it under subsection (6) above in such manner as it considers appropriate.”.

**13.** In section 57(12)—

- (a) in subsection (1) for “waste management licence or waste permit” substitute “environmental permit authorising a waste operation”;
- (b) omit subsection (7A).

**14.** In section 59(13)—

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- (8) Section 34 was amended by the Deregulation and Contracting Out Act 1994 (c. 40), section 33, and the Environment Act 1995 (c. 25), section 120 and Schedule 22, and by S.I. 1999/1820, 2000/1973, 2005/2900 and 2006/123.
  - (9) Section 34B was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 46(1).
  - (10) Section 44 was amended by the Environment Act 1995 (c. 25), section 112 and Schedule 19.
  - (11) Section 44A was inserted by the Environment Act 1995 (c. 25), section 92(1).
  - (12) Section 57 was amended by S.I. 2005/3026.
  - (13) Section 59 was amended by the Clean Neighbourhoods and Environment Act 2005 (c. 16), sections 43(2) and 50(1).

*Status: This is the original version (as it was originally made).*

- (a) in subsection (1) after “section 33(1) above” insert “or regulation 12 of the 2007 Regulations”;
  - (b) in subsection (7) after “section 33(1) above” insert “or regulation 12 of the 2007 Regulations.”.
- 15.** In section 59ZA(2)(**14**) after the words “section 33(1) above” add “or regulation 12 of the 2007 Regulations.”.
- 16.** In section 59A(**15**), after subsection (3), insert—
- “(4) A waste regulation authority shall publicise any direction given to it under subsection (1) above in such manner as it considers appropriate.”.
- 17.** Omit sections 64 to 66, 74 and 77.
- 18.** In section 78YB(**16**)—
- (a) for subsections (1) to (2C) substitute—
    - “(1) This Part shall not apply if and to the extent that—
      - (a) any significant harm, or pollution of controlled waters, by reason of which land would otherwise fall to be regarded as contaminated, is attributable to the operation of a regulated facility; and
      - (b) enforcement action may be taken in relation to that harm or pollution.”;
  - (b) at the end, insert—
    - “(5) In this section—
      - “enforcement action” means action under regulation 36, 37 or 42 of the Environmental Permitting (England and Wales) Regulations 2007;
      - “regulated facility” has the meaning given in regulation 8 of those Regulations.”.

### **Town and Country Planning Act 1990**

- 19.** In section 336(1) of the Town and Country Planning Act 1990(**17**), after the definition of “war damage”, insert—
- ““waste” includes anything that is waste for the purposes of Directive [2006/12/EC](#) of the European Parliament and of the Council on waste, and that is not excluded from the scope of that Directive by Article 2(1) of that Directive;”.

### **Water Industry Act 1991**

- 20.**—(1) Section 138 of the Water Industry Act 1991(**18**) is amended as follows.
- (2) In subsection (1A), for the words “any installation or plant or otherwise carrying on any activity”, substitute “any Part A installation or Part A mobile plant or otherwise carrying on any Part A activity”.
- (3) In subsection (1B)(a) for the words “regulations under section 2 of the Pollution Prevention and Control Act 1999” substitute “the Environmental Permitting (England and Wales) Regulations 2007 (“the 2007 Regulations)”.
- (4) After subsection (1B)(a), insert—

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(14) Section 59ZA was inserted by the Clean Neighbourhoods and Environment Act [2005 \(c. 16\)](#), section 50(2).

(15) Section 59A was inserted by the Anti-Social Behaviour Act 2003, section 55(4).

(16) Section 78YB was inserted by the Environment Act [1995 \(c. 25\)](#), section 57, and amended by the Water Act [2003 \(c. 37\)](#), section 86 and S.I. [2000/1973](#).

(17) [1990, c. 8](#).

(18) [1991, c. 56](#). Section 138 was amended by S.I. [2000/1973](#).

“(aa) the expressions “Part A activity”, “Part A installation” and “Part A mobile plant” have the same meaning as in the 2007 Regulations;”.

(5) In subsection (1B)(b) for the words from “granted” to the end, substitute “granted under the 2007 Regulations”.

## **Water Resources Act 1991**

**21.**—(1) The Water Resources Act 1991(19) is amended as follows.

(2) In sections 85(1), 91(2G)(a), 161(1), 161A(1) and 203(6)(b) omit the word “solid”.

(3) After section 85(6) insert—

“(7) For the purposes of subsection (1) “waste”, in the term “waste matter” includes anything that is waste for the purposes of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on Waste(20), and that is not excluded from the scope of that Directive by Article 2(1) of that Directive.”.

(4) In section 88—

(a) omit subsection (1)(aa);

(b) for subsection (1)(c), substitute—

“(c) a permit granted under the Environmental Permitting (England and Wales) Regulations 2007, except insofar as it authorises a Part B activity within the meaning of those Regulations;”;

(c) omit subsection (3);

(d) in subsection (4)—

(i) omit the definition of “disposal licence”;

(ii) omit the definition of “waste management licence” and the word “and” immediately preceding it.

(5) In section 91, after subsection (8), insert—

“(9) In this section, “waste” has the meaning given in section 85(7).”.

(6) In section 161B, for subsection (6), substitute—

“(6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5), regulations by virtue of that subsection may—

(a) provide for the basis on which any amount to be paid by way of compensation under this section is to be assessed;

(b) without prejudice to the generality of paragraph (a) above, provide for compensation under this section to be payable in respect of—

(i) any effect of any rights being granted, or

(ii) any consequence of the exercise of any rights which have been granted;

(c) provide for the times at which any entitlement to compensation under this section is to arise or at which any such compensation is to become payable;

(d) provide for the persons or bodies by whom, and the manner in which, any dispute—

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(19) 1991, c. 57. Section 88(1) was amended by S.I. 2000/1973. Sections 91, 161 and 203 were amended by the Environment Act 1995 (c. 25) section 120 and Schedule 22. Section 161 was also amended by section 60 of that Act. Section 203 was also amended by the Water Act 2003 (c. 37), section 101 and Schedule 8. Sections 91(2G), 161A and 161B were inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22.

(20) OJNo. L 114, 27.4.2006, p9.

*Status: This is the original version (as it was originally made).*

- (i) as to whether any, and (if so) how much and when, compensation under this section is payable, or
  - (ii) as to the person to or by whom it shall be paid,
- is to be determined;
- (e) provide for when or how applications may be made for compensation under this section;
  - (f) without prejudice to the generality of paragraph (d) above, provide for when or how applications may be made for the determination of any such disputes as are mentioned in that paragraph;
  - (g) without prejudice to the generality of paragraphs (e) and (f) above, prescribe the form in which any such applications as are mentioned in those paragraphs are to be made;
  - (h) make provision similar to any provision made by paragraph 8 of Schedule 19;
  - (i) make different provision for different cases, including different provision in relation to different persons or circumstances;
  - (j) include such incidental, supplemental, consequential or transitional provision as the Secretary of State considers appropriate.”.

### **Clean Air Act 1993**

**22.**—(1) Section 41A of the Clean Air Act 1993(**21**) is amended (in relation to England and Wales) as follows.

(2) After subsection (2)(b), insert—

“(c) in the case of an activity that is an exempt waste operation, the date of the entry on the register maintained under paragraph 4 of Schedule 2 to the 2007 Regulations of an establishment or undertaking in relation to that operation.”;

(3) In subsection (3), after “subsection (2)” insert—

“—

“exempt waste operation” has the meaning given in the 2007 Regulations;”.

(4) After subsection (3), insert—

“(4) In this section—

“activity” includes a waste operation within the meaning of the 2007 Regulations;

“the 2007 Regulations” means the Environmental Permitting (England and Wales) Regulations 2007.”.

### **Environment Act 1995**

**23.**—(1) The Environment Act 1995(**22**) is amended (in relation to England and Wales) as follows.

(2) In section 56(1), in the definition of “environmental licence”—

(a) omit paragraph (c);

(b) for paragraph (h) substitute—

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(21) 1993, c. 11. Section 41A was inserted by S.I. 2000/1973.

(22) 1995, c. 25. Section 56(1) was amended by the Pollution Prevention and Control Act 1999 (c. 24), section 6(1) and Schedule 2, and by S.I. 2000/1973, 2005/925, 2005/1728 and 2006/3289. Paragraph 4 of Schedule 20 was amended by S.I. 2000/1973.

- “(h) registration of a person as a broker of controlled waste under any provision which gives effect in England and Wales to Article 12 of Directive 2006/12/EC of the European Parliament and of the Council on waste.”;
- (c) for paragraph (j) substitute—
  - “(j) registration under Schedule 2 to the Environmental Permitting (England and Wales) Regulations 2007 of an establishment or undertaking in relation to an operation which for the purposes of those Regulations is a notifiable exempt waste operation, or an exempt waste operation falling within paragraph 45(1) or 45(3) of Schedule 3 to those Regulations.”.
- (3) In Schedule 20, in paragraph 4(3), for paragraph (d) substitute—
  - “(d) regulation 53(1) of the Environmental Permitting (England and Wales) Regulations 2007.”.

### **Goods Vehicles (Licensing of Operators) Act 1995**

**24.**—(1) Schedule 2 to the Goods Vehicles (Licensing of Operators) Act 1995(**23**) is amended (in relation to England and Wales) as follows.

- (2) After paragraph 5(i) insert—
  - “(ia) an offence under regulation 38(1)(a) or 38(1)(b) of the Environmental Permitting (England and Wales) Regulations 2007 committed in relation to a waste operation (within the meaning of those Regulations).”.

### **Finance Act 1996**

**25.**—(1) The Finance Act 1996(**24**) is amended (in relation to England and Wales) as follows.

- (2) For section 43A(4)(h), (j) and (k) substitute—
  - “(h) an enforcement notice served under regulation 36 of the Environmental Permitting (England and Wales) Regulations 2007;
  - (j) a suspension notice served under regulation 37 of those Regulations; or
  - (k) an order under regulation 44 of those Regulations.”.

### **Pollution Prevention and Control Act 1999**

**26.** Omit section 4 of the Pollution Prevention and Control Act 1999(**25**).

### **Finance Act 2000**

**27.**—(1) The Finance Act 2000(**26**) is amended (in relation to England and Wales) as follows.

- (2) In the table in paragraph 51 of Schedule 6—
  - (a) for the italic cross-heading “Installations regulated under the Pollution Prevention and Control (England and Wales) Regulations 2000 (SI 2000/1973)” substitute “Installations regulated under the Environmental Permitting (England and Wales) Regulations 2007”;
  - (b) for entry 5(1) substitute “In this entry “the Schedule” means Schedule 1 to the Environmental Permitting (England and Wales) Regulations 2007.”;

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(23) 1995, c. 23.

(24) 1996, c. 8. Section 43A was inserted by S.I. 1996/1529 and amended by S.I. 2000/1973 and 2005/3226.

(25) 1999, c. 24.

(26) 2000, c. 17. Paragraph 51 of Schedule 6 was amended by S.I. 2001/1139, 2006/1848.

**Status:** This is the original version (as it was originally made).

- (c) for entry 5(2)(a) substitute ““Part A installation” has the meaning given in regulation 3(2) of the Environmental Permitting (England and Wales) Regulations 2007;”;
- (d) in entries 5(2)(b), (c) and (d), for “Part 1 of the Schedule” substitute “Part 2 of the Schedule”;
- (e) for entry 5(2)(c)(iii) substitute “paragraph 1 of the Interpretation and application of Part A(1) of Section 5.4;”.