

## SCHEDULE 9

Regulation 35(2)(c)

### Waste operations

#### Application

1. This Schedule applies in relation to every waste operation.

#### Interpretation

2. In this Schedule—
  - “disposal” has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly; and
  - “recovery” has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly.

#### Grant of an environmental permit for a relevant waste operation: requirement for prior planning permission

3.—(1) Following an application under regulation 13(1), the regulator must not grant an environmental permit that relates to a relevant waste operation if—

- (a) use of the site for carrying on the relevant waste operation requires planning permission or development consent under the Planning Act 2008(1); and
- (b) no such permission or consent is in force.

(2) In this paragraph—

“planning permission” means planning permission under the Town and Country Planning Act 1990(2) and includes—

- (a) a certificate under section 191 of that Act(3), and
- (b) an established use certificate under section 192 of that Act, as originally enacted, which continues to have effect for the purposes of subsection (4) of that section; and

“relevant waste operation” means—

- (a) a waste operation that is not carried on at an installation or by means of Part A mobile plant or Part B mobile plant, or
- (b) a specified waste management activity.

(3) In sub-paragraph (2)(b), “specified waste management activity” means one of the following activities—

- (a) the disposal of waste in a landfill falling within Section 5.2 of Part 2 of Schedule 1;
- (b) the disposal of waste falling within Section 5.3 of Part 2 of Schedule 1;
- (c) the recovery of waste falling within Part A(1)(c)(i), (ii), (v) or (vii) of Section 5.4 of Part 2 of Schedule 1.

(4) But “specified waste management activity” does not include any activity specified in sub-paragraph (3)(b) or (c) if that activity—

- (a) is carried on at the same installation as a Part A(1) activity not specified in sub-paragraph (3); and

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(1) 2008 c. 29.

(2) 1990 c. 8.

(3) Section 191 was substituted by the Planning and Compensation Act 1991 (c. 34), section 10(1).

*Status: This is the original version (as it was originally made).*

(b) is not the activity which constitutes the primary purpose for operating the installation.

**Exercise of relevant functions: all waste operations**

4. The regulator must exercise its relevant functions—
  - (a) for the purposes of implementing Article 4 of the Waste Framework Directive; and
  - (b) so as to ensure that the records referred to in Article 14 of the Waste Framework Directive are kept and made available to the regulator on request.

**Exercise of relevant functions: disposal of waste**

- 5.—(1) The regulator must exercise its relevant functions in relation to the disposal of waste—
  - (a) for the purposes of implementing Article 5 of the Waste Framework Directive, ignoring the words “in cooperation with other Member States where this is necessary or advisable”;
  - (b) for the purposes of implementing, so far as material, any waste management plan; and
  - (c) so as to ensure that the requirements in the second paragraph of Article 9(1) of the Waste Framework Directive are met.
- (2) In this paragraph, “waste management plan” has the meaning given in paragraph 1 of Part 1 of Schedule 25 (waste and extractive waste).