

## SCHEDULE 10

### CONSEQUENTIAL AMENDMENTS

#### PART 1:

#### PUBLIC GENERAL ACTS

##### *Income and Corporation Taxes Act 1988*

1. In section 91A(6) of the Income and Corporation Taxes Act 1988 (waste disposal: restoration payments)(1), after paragraph (b) insert—

“(ba) a permit under regulations under section 2 of the Pollution Prevention and Control Act 1999, or”.

##### *Environmental Protection Act 1990*

2. The Environmental Protection Act 1990(2) has effect subject to the following amendments.

3. In section 6 (authorisations: general provisions)—

(a) at the beginning of subsection (6) insert “Subject to subsection (6A) below”;

(b) after subsection (6) insert—

“(6A) Subsection (6) above shall not require a review of the conditions of an authorisation to be carried out if—

(a) the prescribed process covered by the authorisation is carried on in a new Part A installation or by means of a new Part A mobile plant;

(b) the prescribed process covered by the authorisation is carried on in an existing Part A installation or by means of an existing Part A mobile plant and the review would be carried out within the period of two years ending at the beginning of the relevant period for that installation or mobile plant; or

(c) the prescribed process covered by the authorisation is carried on in an existing Part B installation or by means of an existing Part B mobile plant and the review would be carried out within the period of two years ending on the relevant date for that installation or mobile plant.

(6B) In subsection (6A) above, “new Part A installation”, “existing Part A installation”, “new Part A mobile plant”, “existing Part A mobile plant”, “relevant period”, “existing Part B installation”, “existing Part B mobile plant” and “relevant date” have the meaning given in Schedule 3 to the Pollution Prevention and Control (England and Wales) Regulations 2000.”

4. In section 34(1) (duty of care as respects waste)—

(a) after paragraph (a) insert—

“(aa) to prevent any contravention by any other person of regulation 9 of the Pollution Prevention and Control (England and Wales) Regulations 2000 or of a condition of a permit granted under regulation 10 of those Regulations;”;

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(1) 1988 c. 1; section 91A was inserted by section 78 of the Finance Act 1990 (c. 29) and amended by section 110 of the Finance Act 1993 (c. 34).

(2) 1990 c. 43.

*Status: This is the original version (as it was originally made).*

- (b) in paragraph (c)(ii), after “that section” insert “or any condition of a permit granted under regulation 10 of those Regulations”.
5. In section 35 (waste management licences : general)—
- (a) in subsection (11) after “until” insert “it ceases to have effect under subsection (11A) below,”;
- (b) after subsection (11) insert—
- “(11A) A licence shall cease to have effect if and to the extent that the treatment, keeping or disposal of waste authorised by the licence is authorised by a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999.”
6. In section 78YB (interaction of contaminated land provisions with other enactments)(3) after subsection (2) insert—
- “(2A) This Part shall not apply if and to the extent that—
- (a) any significant harm, or pollution of controlled waters, by reason of which the land would otherwise fall to be regarded as contaminated, is attributable to the final disposal by deposit in or on land of controlled waste, and
- (b) enforcement action may be taken in relation to that disposal.
- (2B) A remediation notice shall not be served in respect of contaminated land if and to the extent that—
- (a) the significant harm, or pollution of controlled waters, by reason of which the contaminated land is such land is attributable to an activity other than the final disposal by deposit in or on land of controlled waste, and
- (b) enforcement action may be taken in relation to that activity.
- (2C) In subsections (2A) and (2B) above—
- “controlled waste” has the meaning given in section 75(4) of this Act; and
- “enforcement action” means action under regulation 24 (enforcement notices) or regulation 26(2) (power of regulator to remedy pollution) of the Pollution Prevention and Control (England and Wales) Regulations 2000.”
7. In section 79(10) (restrictions on taking proceedings for statutory nuisance)(4), for the words “or (e)” substitute “,(e) or (g)” and for “paragraph (g) or (ga)” substitute “paragraph (ga)”.

*Water Industry Act 1991*

8. In section 138 of the Water Industry Act 1991 (meaning of “special category effluent”)(5)—
- (a) in subsection (1), for “subsection” substitute “subsections (1A) and”;
- (b) after subsection (1) insert—
- “(1A) If trade effluent is produced, or to be produced, by operating any installation or plant or otherwise carrying on any activity, the operation or carrying on of which requires a permit, that effluent shall not be special category effluent for the purposes of this Chapter as from the determination date relating to the installation, plant or activity in question.
- (1B) In subsection (1A)—
- (a) “determination date”, in relation to an installation, plant or activity, means—

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(3) Section 78YB was inserted by section 57 of the Environment Act 1995 (c. 25).

(4) Section 79(10) was amended by paragraph 2(d) of Schedule 17 to the Environment Act 1995 and paragraph 6 of Schedule 2 to the Pollution Prevention and Control Act 1999.

(5) 1991 c. 56.

- (i) in the case of an installation, plant or activity in relation to which a permit is granted, the date on which it is granted, whether in pursuance of the application, or on an appeal, of a direction to grant it;
  - (ii) in the case of an installation, plant or activity in relation to which the grant of a permit is refused, the date of refusal or, on appeal, of the affirmation of the refusal,
- and in this paragraph the references to an appeal are references to an appeal under regulations under section 2 of the Pollution Prevention and Control Act 1999;
- (b) “permit” means a permit granted, under regulations under that section, by an authority exercising functions under the regulations that are exercisable for the purpose of preventing or reducing emissions into the air, water and land.”;
- (c) in subsection (4), for “In this section” substitute “In subsection (2) and (3) above”.

*Water Resources Act 1991*

**9.** In section 88(1) of the Water Resources Act 1991 (defence to principal offences in respect of authorised discharges)<sup>(6)</sup>, after paragraph (a) insert—

- “(aa) a permit granted, under regulations under section 2 of the Pollution Prevention and Control Act 1999, by an authority exercising functions under the regulations that are exercisable for the purpose of preventing or reducing emissions in to the air, water and land.”.

*Clean Air Act 1993*

**10.** The Clean Air Act 1993<sup>(7)</sup> has effect subject to the following amendments.

**11.** In section 31 (regulations about sulphur content of oil fuel for furnaces or engines), in subsection (4)—

- (a) in paragraph (a), after “which is” insert “(i)” and after “1990” insert “, or
- (ii) part of an installation subject to regulation by the Environment Agency under regulations made under section 2 of the Pollution Prevention and Control Act 1999”; and
- (b) in subsection (4)(b), for “such furnaces” substitute “furnaces within sub-paragraph (i) of paragraph (a) above and of the Environment Agency to enforce those provisions in relation to furnaces within sub-paragraph (ii) of that paragraph”.

**12.** In section 36 (notices requiring information about air pollution), after subsection (2) insert—

- “(2A) If the notice relates to an installation subject to regulation by the Environment Agency under regulations made under section 2 of the Pollution Prevention and Control Act 1999, the person on whom the notice is served shall not be obliged to supply any information which, as certified by the Environment Agency, is not of a kind which is being supplied to the Environment Agency for the purposes of those regulations.”

**13.** After section 41 (relation to the Environment Protection Act 1990) insert—

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<sup>(6)</sup> 1991 c. 57.  
<sup>(7)</sup> 1993 c. 11.

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

**“Relation to the Pollution Prevention and Control Act 1999.**

**41A.**—(1) Where an activity is subject to regulations under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities), Parts I to III of this Act shall not apply as from the determination date for the activity in question.

(2) The “determination date”, for an activity, is—

- (a) in the case of an activity for which a permit is granted, the date on which it is granted, whether in pursuance of the application, or on an appeal, of a direction to grant it;
- (b) in the case of an activity for which a permit is refused, the date of refusal or, on appeal, of the affirmation of the refusal.

(3) In subsection (2) “permit” means a permit under regulations under section 2 of the Pollution Prevention and Control Act 1999 and the reference to an appeal is a reference to an appeal under those regulations.”

*Environment Act 1995*

**14.** The Environment Act 1995<sup>(8)</sup> has effect subject to the following amendments.

**15.** In section 56(1) (interpretation of Part I of the 1995 Act), after paragraph (a) of the definition of “environmental licence” in relation to the Environment Agency insert—

“(aa) a permit granted by the Agency under regulations under section 2 of the Pollution Prevention and Control Act 1999;”.

**16.** In section 108(15) (powers of entry—interpretation)—

(a) in the definition of “local enforcing authority”, after paragraph (c) insert—

“(d) a local authority for the purposes of regulations under section 2 of the Pollution Prevention and Control Act 1999 extending to England and Wales;”;

(b) in the definition of “pollution control functions” in relation to the Environment Agency, after paragraph (m) insert—

“and, in relation to the Agency, includes the functions conferred or imposed on, or transferred to, it under section 2 of the Pollution Prevention and Control Act 1999;”;

(c) in the definition of “pollution control functions” in relation to a local enforcing authority, after paragraph (c) insert—

“and, in relation to an authority in England or Wales, includes the functions conferred or imposed on, or transferred to, that authority under section 2 of the Pollution Prevention and Control Act 1999;”.

**17.** In section 113(5) (definitions relating to disclosure of information), after paragraph (a) of the definitions of “local enforcing authority” insert—

“(aa) in relation to England and Wales, any local authority within the meaning of regulations under section 2 of the Pollution Prevention and Control Act 1999;”.

**18.** In section 114(2)(a) (power of Secretary of State to delegate functions relating to appeals), after sub-paragraph (vii) insert—

“(viii) regulations under section 2 of the Pollution Prevention and Control Act 1999 extending to England and Wales.”.

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(8) 1995 c. 25.

**19.** In Schedule 20, in paragraph 4(3) (holding of local inquiries and other hearings by appointed persons)—

(a) omit “or” at the end of paragraph (b);

(b) after paragraph (c) insert—

“or

(d) regulation 31(6) of the Pollution Prevention and Control (England and Wales) Regulations 2000.”

*Finance Act 1996*

**20.** The Finance Act 1996(9) has effect subject to the following amendments.

**21.** In section 43A(10) (contaminated land)—

(a) omit “or” at the end of paragraph (f);

(b) after paragraph (g) insert—

“(h) an enforcement notice served under regulation 24 of the Pollution Prevention and Control (England and Wales) Regulations 2000;

(j) a suspension notice served under regulation 25 of those Regulations; or

(k) an order under regulation 35 of those Regulations.”

**22.** In section 67 (operator of landfill sites), after paragraph (b) insert—

“(ba) the person who is at the time concerned the holder of the permit, where section 66(ba) above applies;”.

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(9) 1996 c. 8.

(10) Section 43A was inserted by article 3 of the Landfill Tax (Contaminated Land) Order 1996 (S.I.1996/1529).