

SCHEDULES

SCHEDULE 1

PARTICULAR PURPOSES FOR WHICH PROVISION MAY BE MADE UNDER ARTICLE 4

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) Conferring functions on the Department or the Secretary of State and determining the other bodies or persons (in this Schedule referred to as “enforcing authorities”) by which 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.

(2) Specifying any purposes for which any such functions are to be exercisable by enforcing authorities.

3. Enabling the Department or the Secretary of State to give directions which enforcing authorities are to comply with, or guidance which enforcing authorities are to have regard to, in exercising functions under the regulations, including—

- (a) directions providing for any functions exercisable by one enforcing authority to be instead exercisable by another, or by the Department or Secretary of State;
- (b) directions given for the purposes of the implementation of any obligations of the United Kingdom under the Community 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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Permit

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 enforcing authorities.

(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 enforcing authorities (whether periodically or in any specified circumstances).

(2) Authorising or requiring the variation of permits or such conditions by enforcing authorities (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 enforcing authorities.

(3) Authorising the imposition by enforcing authorities 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 Department to make schemes for the charging by enforcing authorities 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.

10. Authorising, or authorising the Department to make schemes for, the charging by the Department or public bodies 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;
- 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 enforcing authorities maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be, 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 enforcing authorities 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 enforcing authorities 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 the appointment of suitable persons to exercise any such functions and conferring powers (such as those specified in Article 17(3) of the [Industrial Pollution Control \(Northern Ireland\) Order 1997 \(NI 18\)](#)) on persons so appointed.

15.—(1) Authorising enforcing authorities 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 enforcing authorities 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.

16. Authorising enforcing authorities 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

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(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) an enforcing authority to arrange for such action to be taken at that person's expense.

Appeals

19.—(1) 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).

(2) Making provision for—

- (a) the payment of fees and costs in connection with such appeals; and
- (b) the determination of the amount of any such fees or costs.

General

20.—(1) Making provision which, subject to any modifications that the Department considers appropriate, corresponds or is similar to—

- (a) any provision made by or under, or capable of being made under—
 - (i) the Industrial Pollution Control (Northern Ireland) Order 1997; or
 - (ii) Part II of the [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(NI 19\)](#);
or
- (b) any provision made, or capable of being made, under section 2(2) of the European Communities Act 1972 (c. 68) 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;
- (c) Council Directive [99/31/EC](#) on the landfill of waste; and
- (d) any other directive of the Council of the European Communities designated by the Department by order for the purposes of this paragraph.

(3) Making provision about the application of the regulations to the Crown.

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.

Determination of matters by enforcing authorities

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 enforcing authorities.

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 an enforcing authority 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 require any such scheme as is mentioned in paragraph 9 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 enforcing authority or other person to whom they are so payable) as is specified.

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 six months), or
 - (ii) a fine not exceeding such amount as is specified (which may not exceed £30,000), 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.

Interpretation

26. In this Schedule—

- “public body” means a body established or constituted by or under a statutory provision;
- “the regulations” means regulations under Article 4;
- “specified” means specified in regulations under that Article.