

SCHEDULE 10

Regulation 36

CONSEQUENTIAL AMENDMENTS

PART 1

PUBLIC GENERAL ACTS

Control of Pollution Act 1974

1. After section 30I(1) of the Control of Pollution Act 1974(interpretation)(1), insert after paragraph (b)–

- “(ba) a permit granted by SEPA under regulations made under section 2 of the Pollution Prevention and Control Act 1999;”.

Income and Corporation Taxes Act 1988

2. In section 91A(6) of the Income and Corporation Taxes Act 1988 (waste disposal : restoration payments)(2), after paragraph (b) insert–

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

Environmental Protection Act 1990

3.—(1) The Environmental Protection Act 1990(3) has effect subject to the following amendments.

(2) In section 6 (authorisations : general provisions)–

- (a) at the beginning of subsection (6) insert “Subject to subsection (6A) below;”;
- (b) after that subsection 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;
- (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 two year period 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

(1) 1974 c. 40. Section 30I was inserted by the Environment Act 1995, Schedule 16, paragraph 2.

(2) Section 91A was inserted by the Finance Act 1990 (c. 29), section 78.

(3) 1990 c. 43.

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Part B installation”, “existing Part B mobile plant” and “relevant date” have the meanings given in Schedule 3 to the Pollution Prevention and Control (Scotland) Regulations 2000.”.

- (3) In section 34(1)(duty of care as respects waste)–
- (a) in subsection (1), after paragraph (a) insert–
 - “(aa) to prevent any contravention by any other person of regulation 6 of the Pollution Prevention and Control (Scotland) Regulations 2000 or of a condition of a permit granted under regulation 7 of those Regulations;”;
 - (b) in paragraph (c)(ii), after the words “that section”, insert “or any condition of a permit granted under regulation 7 of those Regulations;”.
- (4) 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 license is authorised by a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999.”.
- (5) In section 78YB (interaction of contaminated land provisions with other enactments)(4), 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 activity.
 - (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;
 - “enforcement action” means action under regulation 19 (enforcement notices) or regulation 21(2) (power of the Scottish Environment Protection Agency to remedy pollution) of the Pollution Prevention and Control (Scotland) Regulations 2000.”.
- (6) In section 79(10) (restrictions on taking proceedings for statutory nuisance)(5), for the words “or (e)” substitute “,(e) or (g)” and for “paragraph (g) or (ga)” substitute “paragraph (ga)”.

Clean Air Act 1993

- 4.—(1) The Clean Air Act 1993(6) has effect subject to the following amendments.
- (2) In section 31(4) (regulations about sulphur content of oil fuel for furnaces or engines)–

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

(5) Section 79(10) was amended by paragraph 2(d) of Schedule 17 to the Environment Act 1995.

(6) 1993 c. 11.

- (a) in paragraph (a), after which is, insert “(i)” and after “1990” insert “or (ii) part of an installation subject to regulation by the Scottish Environment Protection Agency under regulations made under the Pollution Prevention and Control Act 1999”; and
 - (b) in paragraph (b), for “such furnaces” substitute “furnaces within sub-paragraph (i) of paragraph (a) above and of the Scottish Environment Protection Agency to enforce those provisions in relation to furnaces within sub-paragraph (ii) of that paragraph”.
- (3) In section 36 (notices requiring information about air pollution), after subsection (2) insert—
- “(2A) If the notice relates to an installation subject to 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 Scottish Environment Protection Agency, is not of a kind which is being supplied to it for the purposes of those regulations.”
- (4) After section 41 (relation to the Environmental Protection Act 1990) insert—

“Relation to 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

5.—(1) The Environment Act 1995(7) has effect subject to the following amendments.

(2) In section 56(1) (interpretation of Part I of the 1995 Act), after paragraph (a) of the definition of “environmental licence” in relation to SEPA insert—

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

(3) In section 108(15) (powers of entry -interpretation) after paragraph (m) of the definition of “pollution control functions” insert—

“(n) in relation to SEPA, regulations under section 2 of the Pollution Prevention and Control Act 1999;”.

(4) In section 114(2)(a) (power 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 Scotland”.

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

(7) 1995 c. 25.

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- (a) omit “or” at the end of paragraph (b); and
- (b) insert after paragraph (c)–
 - “; or
- (d) regulation 22 of the Pollution Prevention and Control (Scotland) Regulations 2000.”.

Finance Act 1996

- 6.—(1) The Finance Act 1996(8) has effect subject to the following amendments.
- (2) In section 43A(4)(9) (contaminated land)–
 - (a) omit “or” at the end of paragraph (f); and
 - (b) insert after paragraph (g)–
 - “(h) an enforcement notice served under regulation 19 of the Pollution Prevention and Control (Scotland) Regulations 2000;
 - (j) a suspension notice served under regulation 20 of those Regulations; or
 - (k) an order under regulation 33 of those Regulations.”.
- (3) After section 67(b) (operators of landfill sites) insert–
 - “(ba) the person who is at the time concerned the holder of the permit, where section 66(ba) above applies;”.

PART 2

SUBORDINATE LEGISLATION

The Radioactive Substances (Hospitals) Exemption Order 1990

7. In the definition of “site licence” in article 2(1) of the Radioactive Substances (Hospitals) Exemption Order 1990(10), after “1990” insert “or a permit under the Pollution Prevention and Control (Scotland) Regulations 2000”.

The Environmental Protection (Prescribed Processes and Substances) Regulations 1991

8. After regulation 3 of the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(11) insert–

“Exclusion of prescribed processes under control of the Pollution Prevention and Control (Scotland) Regulations 2000

3A.—(1) Where a process which is being carried on under an authorisation requires a permit under the Pollution Prevention and Control (Scotland) Regulations 2000 authorising the carrying on of that process in an installation or by means of mobile plant and an application is made (or deemed to have been made) under those Regulations for the permit,

(8) 1996 c. 8.

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

(10) S.I. 1990/2512.

(11) S.I. 1991/472; to which there are amendments not relevant to these Regulations.

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that process shall, from the determination date for the installation or mobile plant, as the case may be, no longer be taken to fall within a description in Schedule 1.

(2) Where a process which is not being carried on under an authorisation requires a permit under those Regulations authorising the carrying on of that process in an installation or by means of mobile plant, that process shall not be taken to fall within a description in Schedule 1 from the date on which the permit is required.

(3) In this regulation, “installation” and “mobile plant” have the meanings given in regulation 2(1) of the Pollution Prevention and Control (Scotland) Regulations 2000 and “determination date” has the meaning given in Schedule 3 to those Regulations.”.

The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991

9. At the end of Schedule 1 to the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(**12**) insert “The Pollution Prevention and Control (Scotland) Regulations 2000.”.

The Environmental Protection (Duty of Care) Regulations 1991

10. In the Table in regulation 2 of the Environmental Protection (Duty of Care) Regulations 1991(**13**), after the second entry in column 1 insert–

“A person who is the holder of a permit under the Pollution Prevention and Control (Scotland) Regulations 2000 which authorises the carrying out of a specified waste management activity within the meaning of those Regulations.”.

The Waste Management Licensing Regulations 1994

11.—(1) The Waste Management Licensing Regulations 1994(**14**) have effect subject to the following amendments.

(2) In regulation 1(3) after the definition of “the 1991 Regulations” insert–

““the 2000 Regulations” means the Pollution Prevention and Control (Scotland) Regulations 2000;”.

(3) In regulation 3 (relevant offences) after paragraph (n) insert–

“(o) regulation 30(1) of the 2000 Regulations.”.

(4) In regulation 10 (public registers)–

(a) after paragraph (1)(n) insert–

“(o) in Scotland, the following information contained in any register maintained by the Scottish Environment Protection Agency under regulation 27 of the 2000 Regulations to the extent that it relates to a specified waste management activity carried out in the area of the authority:–

- (i) current or recently current permits granted under the 2000 Regulations;
- (ii) variation notices under regulation 13 of the 2000 Regulations varying such permits;
- (iii) revocation notices under regulation 17 of those Regulations and suspension notices under regulation 20 of those Regulations issued in relation to such permits;

(12) S.I. 1991/1624; Schedule 1 was amended by S.I. 1994/1137 and S.I. 1996/972.

(13) S.I. 1991/2839; to which there are amendments not relevant to these Regulations.

(14) S.I. 1994/1056; relevantly amended by S.I. 1995/288 and 1996/972.

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- (iv) notices of determination issued under regulation 16 of those Regulations in relation to applications made to surrender such permits.”;
- (b) in paragraph (4), after “waste management licence” where those words first occur insert “and permits granted under the 2000 Regulations”;
- (c) after paragraph (4) insert–
 - “(5) The Scottish Environment Protection Agency shall furnish waste regulation authorities with the particulars necessary to enable them to discharge their duty under paragraph (1)(o).”.
- (5) In regulation 11 (information to be excluded or removed from register), after paragraph (2) insert–
 - “(3) Regulation 10(1)(o) shall not require a register maintained by a waste regulation authority under that sub-paragraph to contain any information which has been superseded by later information after 4 years have elapsed from that later information being entered in the register.”.
- (6) In regulation 16 (exclusion from waste management licensing)–
 - (a) after paragraph (1)(b) insert–
 - “(ba) the deposit in or on land, recovery or disposal of waste under a permit granted under the 2000 Regulations to operate a Part A installation;
 - (bb) the disposal of waste under a permit granted under the 2000 Regulations where the activity is or forms part of an activity within paragraph (a) or (b) of Part A of Section 5.1 (incineration) of Part 1 of Schedule 1 to those Regulations;
 - (bc) the disposal of waste under a permit granted under the 2000 Regulations where the activity is or forms part of an activity within paragraph (a) or (b) of Part B of Section 5.1 (incineration) of Part 1 of Schedule 1 to those Regulations in so far as the activity results in the release of substances into the air;”;
 - (b) for “and (b)” in paragraph (2) substitute “, (b) and (bc)”;
 - (c) after paragraph (2) insert–
 - “(3) In paragraph (1)(ba) “Part A installation” has the meaning given by regulation 2(1) of the 2000 Regulations.”.
- (7) In paragraph (10) of regulation 18 (registration in connection with exempt activities)–
 - (a) in sub-paragraph (a), after “Schedule 3” in sub-paragraph (i) insert “and carried out under an authorisation granted under Part I of the 1990 Act”;
 - (b) after sub-paragraph (a) insert–
 - “(aa) in the case of an exempt activity falling within–
 - (i) paragraph 1A, 2A, 3 or 24 of Schedule 3 and carried out under a permit under the 2000 Regulations;
 - (ii) paragraph 4 of Schedule 3 if it involves the coating or spraying of metal containers as or as part of an activity within Part B of Section 6.4 (coating activities and printing) of Part 1 of Schedule 1 to the 2000 Regulations and the activity is for the time being the subject of a permit granted under those Regulations, or if it involves storage related to that activity; or
 - (iii) paragraph 12 of Schedule 3 if it involves the composting of biodegradable waste as or as part of an activity within paragraph (a) of Part B of Section 6.8 (treatment of animal and vegetable matter) of Part 1 of Schedule 1 to the 2000 Regulations, the compost is to be used for the purpose of cultivating mushrooms and the activity is for the time being the subject of a permit

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granted under those Regulations, or if it involves storage related to that activity,

the Scottish Environment Protection Agency granting the permit under the 2000 Regulations authorising the exempt activity;”.

- (8) In regulation 20(2)(a), after “1990 Act” insert “a permit under the 2000 Regulations,”.
- (9) In Schedule 3–
- (a) after paragraph 1 insert–
- “1A.—(1) The use, under a permit under the 2000 Regulations, of waste glass as part of an activity within Part B of Section 3.3 (the manufacture of glass and glass fibre) of Part 1 of Schedule 1 to the 2000 Regulations if the total quantity of waste glass so used in that activity does not exceed 600,000 tonnes in any period of twelve months.
- (2) The storage, at the place where the activity is carried out, of any such waste which is intended to be so used.”;
- (b) after paragraph 2 insert–
- “2A.—(1) The operation, under a permit under the 2000 Regulations, of a scrap metal furnace with a design holding capacity of less than 25 tonnes to the extent that it is or forms part of an activity within paragraph (a) or (d) of Part B of Section 2.1 (ferrous metals) or paragraph (a) or (b) of Part B of Section 2.2 (non-ferrous metals) of Part 1 of Schedule 1 to the 2000 Regulations.
- (2) The loading or unloading of such a furnace in connection with its operation in a manner covered by the exemption conferred by sub-paragraph (1).
- (3) The storage, at the place where such a furnace is located (but not in cases where that place is used for carrying on business as a scrap metal dealer) of scrap metal intended to be submitted to an operation covered by the exemption conferred by sub-paragraph (1).”;
- (c) in paragraph 3(a), after “the 1990 Act” insert “or a permit under the 2000 Regulations” and after “1991 Regulations” insert “or an activity within Part B of any Section of Part 1 of Schedule 1 to the 2000 Regulations”;
- (d) in paragraph 3(d), after “1990 Act” insert “or a permit under the 2000 Regulations” and after “1991 Regulations” insert “or an activity within Part B of Section 1.1 of Part 1 of Schedule 1 to the 2000 Regulations”;
- (e) in paragraph 24(1), after “1991 Regulations” insert “or under a permit under the 2000 Regulations, to the extent that it is or forms part of an activity within paragraph (a) of Part B of Section 3.5 (other mineral activities) of Part 1 of Schedule 1 to the 2000 Regulations”;
- (f) in paragraph 29(1), after “1991 Regulations” insert “or an exempt incineration plant for the purposes of Section 5.1 of Part 1 of Schedule 1 to the 2000 Regulations”;
- (g) in paragraph 44(3), after “1991 Regulations” insert–
- “or an activity described in Section 2.1 (other than in paragraph (d) of Part B) of Part 1 of Schedule 1 to the 2000 Regulations”;
- (h) in paragraph 44(4), after “1991 Regulations” insert–
- “or an activity described in Part A of Section 2.2 of Part 1 of Schedule 1 to the 2000 Regulations”;
- (i) in paragraph 45(2)(a) after “1990 Act” insert “or a permit under the 2000 Regulations”.
- (10) In Schedule 4–

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- (a) in paragraph 1, after “under Part I of the 1990 Act,” in the definition of “permit” insert “a permit under the 2000 Regulations.”;
- (b) after paragraph 2(4) insert—
 - “(5) In a case where the recovery or disposal of waste is or forms part of an activity carried out at a Part B installation and requires a waste management licence, nothing in sub-paragraph (1) shall require a competent authority to discharge its functions under—
 - (a) the 2000 Regulations for any purpose other than preventing or, where that is not practicable, reducing emissions into the air;
 - (b) Part II of the 1990 Act for the purpose of preventing or reducing emissions into the air.
 - (6) In sub-paragraph (5), “Part B installation” has the meaning given by regulation 2(1) of the 2000 Regulations.”;
- (c) in paragraph 3(1), at the end of Table 5 in sub-paragraph (1) insert—

“The Scottish Environment Protection Agency, Their respective functions in relation to the Scottish Ministers or a person appointed permits under the 2000 Regulations except under section 114(1)(a) of the Environment Act in relation to the carrying out of an exempt activity under such permits.”.

The Conservation (Natural Habitats, &c.) Regulations 1994

- 12.** After regulation 84 of the Conservation (Natural Habitats, &c.) Regulations 1994⁽¹⁵⁾ insert—

“Permits under the Pollution Prevention and Control (Scotland) Regulations 2000

84A.—(1) Regulations 48 and 49 (requirement to consider effect on European site) apply in relation to the granting of a permit under the Pollution Prevention and Control (Scotland) Regulations 2000.

(2) Where in such a case the competent authority consider that any adverse effects of the plan or project on the integrity of a European site would be avoided if the permit were subject to conditions, they may grant a permit, or cause a permit to be granted, subject to those conditions.

(3) Regulations 50 and 51 (requirement to review existing decisions and consents, &c.) apply to any such permit as is mentioned in paragraph (1).

(4) Where on the review of such a permit the competent authority consider that any adverse effects on the integrity of a European site of the carrying out or, as the case may be, the continuation of activities authorised by it would be avoided by a variation of the permit, they may vary it, or cause it to be varied, accordingly.

(5) Where any question arises as to agreeing to a plan or project, of affirming a permit on review, under regulation 49 (considerations of overriding public interest), the competent authority shall refer the matter to the Scottish Ministers who shall determine the matter in accordance with that regulation and give directions to the authority accordingly.”.

The Special Waste Regulations 1996

- 13.**—(1) In regulation 15 of the Special Waste Regulations 1996⁽¹⁶⁾ (registers)—

⁽¹⁵⁾ S.I. 1994/2716; to which there are amendments not relevant to these Regulations.

⁽¹⁶⁾ S.I. 1996/972; to which there are amendments not relevant to these Regulations.

(a) after paragraph (6) insert–

“(6A) Where, by virtue of regulation 16(1)(ba) or (bb) of the 1994 Regulations, section 33(1)(a), (b) and (c) of the 1990 Act does not apply to any of the activities carried on at a site at which special waste is received, paragraph (5) shall have effect as if any reference to the surrender or revocation of a person’s waste management licence were a reference to the surrender or revocation of his permit under the Pollution Prevention and Control (Scotland) Regulations 2000 for the site in question.”;

(b) in paragraph (7), after “paragraph (6)” insert “or (6A)”.

(2) In regulation 17(2) (restrictions on mixing special waste) of those Regulations, in paragraph (a), after “1990 Act” insert “or under a permit granted under the Pollution Prevention and Control (Scotland) Regulations 2000”.

The Landfill Tax Regulations 1996

14. In regulation 33(4) of the Landfill Tax Regulations 1996(**17**), after paragraph (g) insert–

“(h) an enforcement notice served under regulation 19 of the Pollution Prevention and Control (Scotland) Regulations 2000;

(i) a suspension notice served under regulation 20 of those Regulations;

(j) an order under regulation 33 of those Regulations.”.

The Specified Risk Material Regulations 1997

15.—(1) The Specified Risk Material Regulations 1997(**18**) have effect subject to the following amendments.

(2) In regulations 24(9)(a)(i) and (b)(i), after “1990” insert “or a permit granted under the Pollution Prevention and Control (Scotland) Regulations 2000”.

(3) In regulation 24(10), after “1990” insert “or the Pollution Prevention and Control (Scotland) Regulations 2000”.

(4) In the second column of the table in Schedule 2, after “1990” in the entry corresponding to regulation 24(9) in the first column of that table insert “or authorised under the Pollution Prevention and Control (Scotland) Regulations 2000”.

The Groundwater Regulations 1998

16.—(1) The Groundwater Regulations 1998(**19**) have effect subject to the following amendments.

(2) In the definition of “authorisation” in regulation 1(3), omit “and” at the end of paragraph (c) and after paragraph (d) insert–

“; and

(e) a permit under the Pollution Prevention and Control (Scotland) Regulations 2000 in so far as it authorises the operation of a Part A installation or Part A mobile plant within the meaning of those Regulations;”.

(3) After “(integrated pollution control)” in regulation 3 insert “and the Pollution Prevention and Control (Scotland) Regulations 2000”.

(17) S.I. [1996/1527](#).

(18) S.I. [1997/2965](#); to which there are amendments not relevant to these Regulations.

(19) S.I. [1998/2746](#).

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Contaminated Land (Scotland) Regulations 2000

17.—(1) The Contaminated Land (Scotland) Regulations 2000**(20)** have effect subject to the following amendments.

(2) In regulation 2—

(a) after paragraph (1)(d) insert—

“(da) land on which an activity has been or is being carried on in a Part A installation or by means of Part A mobile plant under a permit where the activity does not comprise solely things being done which are required by way of remediation;”;

(b) after paragraph (3) insert—

“(3A) In paragraph (1)(da) above, “Part A installation”, “Part A mobile plant” and “permit” have the same meaning as in the Pollution Prevention and Control (Scotland) Regulations 2000.”.

(3) In paragraph 13 of Schedule 4—

(a) after “section 78YB(1)” insert “or 78YB(2B)”;

(b) in sub-paragraph (c), after “section 27” insert “or by means of enforcement action (within the meaning of section 78YB(2C))”.