

## SCHEDULE 10

### 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

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(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)—

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(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<sup>(8)</sup> has effect subject to the following amendments.
- (2) In section 43A(4)<sup>(9)</sup> (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;”.

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<sup>(8)</sup> 1996 c. 8.

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