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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 541 (C. 40)**

**ENVIRONMENTAL PROTECTION**

**The Environment Act 1995 (Commencement  
No. 22) (Scotland) Order 2004**

*Made - - - - 15th December 2004*

The Scottish Ministers in exercise of the powers conferred by section 125(3) of the Environment Act 1995<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation and extent**

1.—(1) This Order may be cited as the Environment Act 1995 (Commencement No. 22) (Scotland) Order 2004.

(2) This Order extends to Scotland only.

**Provisions coming into force on 1st January 2005**

2. The following provisions of the Environment Act 1995 shall (in so far as not already in force) come into force on 1st January 2005—

- (a) section 120(1), in so far as it relates to paragraphs 27(b) and (c), 88<sup>(2)</sup> and 95 of Schedule 22; and
- (b) section 120(3), in so far as it relates to the repeal in Schedule 24 of—
  - (i) the words from “and for the purposes” of to the end of section 30(1) of the Control of Pollution Act 1974<sup>(3)</sup>; and
  - (ii) section 75(3) of the Environmental Protection Act 1990<sup>(4)</sup>.

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(1) 1995 c. 25. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).  
(2) Paragraph 88 of Schedule 22 to the Environment Act 1995 (c. 25) was commenced for the purposes only of the Landfill (Scotland) Regulations 2003 (S.S.I. 2003/235) by virtue of article 2(b) of the Environment Act 1995 (Commencement No 21) (Scotland) Order 2003 (S.S.I. 2003/206).  
(3) 1974 c. 40.  
(4) 1990 c. 43.

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St Andrew's House, Edinburgh  
15th December 2004

*ROSS FINNIE*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 1st January 2005, section 120(1) of the Environment Act 1995 (“the 1995 Act”) insofar as it relates to paragraphs 27(b) and (c), 88 and 95 of Schedule 22 (insofar as those provisions are not already in force).

Paragraphs 27(b) and (c) respectively make amendments to section 30(1) of the Control of Pollution Act 1974 (“the 1974 Act”) concerning the definition of “waste” and in order that the words which provide a presumption that anything discarded is waste unless the contrary is proved cease to have effect. Paragraph 88 amends section 75 of the Environmental Protection Act 1990 (“the 1990 Act”) (meaning of “waste” and household, commercial and industrial waste and special waste).

Paragraph 95 inserts a new Schedule 2B (categories of waste) to the 1990 Act in relation to section 75 of that Act.

In consequence of the commencement of section 120(1) of the 1995 Act and the relevant paragraphs of Schedule 22, this Order also brings into force on the same date section 120(3) (minor and consequential amendments, transitional and transitory provisions, savings and repeals) of the 1995 Act in so far as it relates to the repeal of the words in section 30(1) of the 1974 Act and section 75(3) of the 1990 Act which provides a presumption that anything discarded is waste unless the contrary is proved.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the 1995 Act have been brought into force by commencement order made before the date of this Order—

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Section 1	28.7.1995	1995/1983
Section 2	1.4.1996	1996/186
Section 3(1)	1.4.1996	1996/186
Section 3(2) to (8)	28.7.1995	1995/1983
Section 4	28.7.1995	1995/1983
Section 5	1.2.1996 and 1.4.1996	1996/186
Section 6	1.4.1996	1996/186
Section 7	28.7.1995	1995/1983
Section 8	1.4.1996	1996/186
Section 9	28.7.1995	1995/1983
Sections 10 and 11	1.4.1996	1996/186

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<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Section 12	28.7.1995	1995/1983
Sections 13 to 19	1.4.1996	1996/186
Sections 20 to 23	12.10.1995	1995/2649
Sections 25 to 29	1.4.1996	1996/186
Sections 30 to 32	12.10.1995	1995/2649
Section 33 to 35	1.4.1996	1996/186
Section 36	12.10.1995	1995/2649
Section 37	28.7.1995	1995/1983
	and 1.4.1996	and 1996/186
Sections 38 to 40	28.7.1995	1995/1983
Section 41	21.9.1995	1995/1983
	1.2.1996	and 1996/186
	and 1.4.1996	
Section 42	21.9.1995	1995/1983
Sections 43 to 52	28.7.1995	1995/1983
Sections 53 and 54	1.4.1996	1996/186
Section 55	1.2.1996	1996/186
	and 1.4.1996	
Section 56	28.7.1995	1995/1983
Section 57 (partially)	21.9.1995	1995/1983
(partially) as to England	1.4.2000	2000/340
(partially) as to Scotland	14.7.2000	S.S.I. 2000/180
Scotland	14.7.2000	2000/1986
(partially) as to Wales	15.9.2001	2001/3211
Section 58	21.9.1995	1995/1983
	and 4.3.1998	and 1998/604
Section 59	12.10.1995	1995/2649
	and 1.1.1999	and 1998/327
Section 60	1.7.1997	1997/1626
	and 1.7.1998	and 1998/604
Section 78 and Schedule 10 (partially), with savings	23.11.1995	1995/2950
	1.4.1996	and 1996/2560

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
	and 1.4.1997	
Section 80	1.2.1996	1996/186
Section 81	1.4.1996	1996/186
Sections 82 to 86	23.12.1997	1997/3044
Sections 87 to 89	1.2.1996	1996/186
Section 90 and Schedule 11	1.2.1996	1996/186
	and 23.12.199	and 1997/3044
Section 91	1.2.1996	1996/186
Section 92	1.4.1996	1996/186
Sections 93 to 95	21.9.1995	1995/1983
Section 96(1), (5) and (6) and Schedules 13 and 14 as to (England and Wales)	1.11.1995	1995/2765
Section 96(1), (5) and (6) and Schedules 13 and 14 (as to Scotland)	1.1.1997	1996/2857
Section 96(2)	1.11.1995	1995/2765
Section 96(3)	1.1.1997	1996/2857
Section 96(4) (partially)	1.11.1995	1995/2765
Section 96(4) (partially) (as to Scotland)	1.1.1997	1996/2857
Section 97 to 103	21.9.1995	1995/1983
Section 104	1.4.1996	1996/186
Section 105 and Schedule 15	21.9.1995	1995/1983
	1.2.1996	and 1996/186
	1.4.1996	
	and 1.1.1999	
Sections 106 to 114	1.4.1996	1996/186
Section 115	1.4.1996	1995/2950
		and 1996/186
Section 116 and Schedule 21 (partially)	21.9.1995	1995/1983
	1.7.1997	1997/1626
	and 8.4.1998	and 1998/781
Section 117	1.4.1996	1996/186

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<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Section 118(1) to (3), (4) and (5) (partially) and (6)	1.4.1996	1996/186
Section 119	1.4.1996	1996/186
Section 120(1)	21.9.1995	1995/1983
and Schedule 22 (partially)	21.10.1995	1995/2649
	1.2.1996	1996/186
	1.4.1996	1996/2909
	21.11.1996	1997/3044
	31.12.1996	1998/604
	23.12.1997	1999/803
	1.4.1998	1999/1301
	16.3.99	1999/1301
	1.4.99	
	29.4.99	
(partially) as to England	1.4.2000	2000/340
(partially) as to Scotland	14.7.2000	S.S.I. 2000/180
	1.1.2000	S.S.I. 2000/433
(partially) as to Wales	15.9.2001	2001/3211
(partially) as to Scotland	20.3.2003	S.S.I. 2003/206
Section 120(2) and Schedule 23 (partially)	1.4.1996	1995/1983
	and 1.1.1999	and 1996/186
Section 120(3) and Schedule 24 (partially)	21.9.1995	1995/1983
	1.11.1995	1995/2765
	1.2.1996	1996/186
	1.4.1996	1996/2560
	31.12.1996	1996/2857
	1.1.1997	1996/2909
	1.4.1997	
	1.1.1999	
as to Scotland	14.7.2000	S.S.I. 2000/180
(partially) as to Wales	15.9.2001	2001/3211
Section 120(4) to (6)	28.7.1995	1995/1983
Section 121 to 124	28.7.1995	1995/1983
Paragraph 7(2) of Schedule 7	1.4.1997	1996/2560

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