

SCHEDULES

SCHEDULE 15

Section 162.

CONSEQUENTIAL AND MINOR AMENDMENTS OF ENACTMENTS

Statutory nuisances: Scotland

- 1 In section 3 of the Public Health (Scotland) Act 1897 at the end there shall be added the following paragraph—

“The word “ratepayer” means a person who either is liable to pay any of the community charges or community water charges imposed under the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (or would be so liable but for any enactment or anything provided or done under any enactment) or is a non-domestic ratepayer.”.

Exclusion of Alkali Works Act for prescribed processes

- 2 In the Alkali, &c. Works Regulation Act 1906 there shall be inserted, after section 2, the following section—

“2A Relation to Environmental Protection Act 1990, Part I

- (1) The preceding provisions of this Part of this Act shall not apply to any process which is a prescribed process as from the date which is the determination date for that process.
- (2) The “determination date” for a prescribed process is—
- (a) in the case of a process for which an authorisation is granted, the date on which the enforcing authority grants it, whether in pursuance of the application or, on an appeal, of a direction to grant it;
- (b) in the case of a process for which an authorisation is refused, the date of the refusal or, on an appeal, of the affirmation of the refusal.
- (3) In this section “authorisation”, “enforcing authority” and “prescribed process” have the meaning given in section 1 of the Environmental Protection Act 1990 and the reference to an appeal is a reference to an appeal under section 15 of that Act.”.

and, immediately before section 25, as section 24A, a section in the same terms as the section 2A inserted after section 2.

Stray dogs

- 3 (1) The following provisions of the Dogs Act 1906 shall be amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) The amendments made to section 3 by section 39(2) of the Local Government Act 1988 and section 128(1)(a) of the Civic Government (Scotland) Act 1982 shall cease to have effect.
- (3) In section 4—
- (a) subsection (1) shall be omitted;
 - (b) in subsection (2), for the words “so taken to a police station” there shall be substituted the words “taken to a police station in pursuance of section 150(1) of the Environmental Protection Act 1990”;
 - (c) in subsection (2)(a), for the words from “his name and address” to “other” there shall be substituted the words “this fact and shall furnish his name and address and the police officer shall, having complied with the procedure (if any) prescribed under subsection (5) below, allow the finder to remove the dog”;
 - (d) in subsection (3), for the words from “fails” to “section” there shall be substituted the words “removes the dog but fails to keep it for at least one month,”; and
 - (e) after subsection (3) or, as respects Scotland, subsection (4) there shall be inserted as subsection (4) or subsection (5) the following subsection—

“() The Secretary of State may, by regulations made by statutory instrument, prescribe the procedure to be followed under subsection (2)(a) above and any instrument containing regulations under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Statutory nuisances

- 4 (1) The following provisions of the Public Health Act 1936 (matters deemed statutory nuisances) shall be amended as follows.
- (2) In section 141, for the words “Part III of this Act” there shall be substituted the words “Part III of the Environmental Protection Act 1990”.
- (3) in section 259(1), for the words “Part III of this Act” there shall be substituted the words “Part III of the Environmental Protection Act 1990”.
- (4) In section 268—
- (a) in subsection (1), for the words “Parts III” there shall be substituted the words “Part III of the Environmental Protection Act 1990 and Parts”;
 - (b) in subsection (2), for the words “the said Part III” there shall be substituted the words “Part III of the Environmental Protection Act 1990”; and
 - (c) in subsection (3), for the words “Part III of this Act” there shall be substituted the words “Part III of the Environmental Protection Act 1990”.
- 5 (1) Section 151 of the Mines and Quarries Act 1954 (matters deemed statutory nuisances) shall be amended as follows.
- (2) In subsection (2), for the words “Part III of the Public Health Act 1936” there shall be substituted the words “Part III of the Environmental Protection Act 1990”.
- (3) In subsection (3), for the words “Part III of the Public Health Act 1936” there shall be substituted the words “Part III of the Environmental Protection Act 1990”.

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

- (4) In subsection (5), for the words “Part III of the Public Health Act 1936” there shall be substituted the words “Part III of the Environmental Protection Act 1990”.

Exclusion of Clean Air Act 1956 for prescribed processes

- 6 In the Clean Air Act 1956 there shall be inserted, immediately before section 17, the following section—

“16A Relation to Environmental Protection Act 1990, Part I

- (1) The preceding provisions of this Act shall not apply to any process which is a prescribed process as from the date which is the determination date for that process.
- (2) The “determination date” for a prescribed process is—
- (a) in the case of a process for which an authorisation is granted, the date on which the enforcing authority grants it, whether in pursuance of the application or, on an appeal, of a direction to grant it;
 - (b) in the case of a process for which an authorisation is refused, the date of the refusal or, on an appeal, of the affirmation of the refusal.
- (3) In this section “authorisation”, “enforcing authority” and “prescribed process” have the meaning given in section 1 of the Environmental Protection Act 1990 and the reference to an appeal is a reference to an appeal under section 15 of that Act.”

Statutory nuisances

- 7 (1) The following provisions of the Clean Air Act 1956 (references to statutory nuisances) shall be amended as follows.
- (2) In section 18(2) and (5) for the words “section ninety-two of the Public Health Act 1936” there shall be substituted the words “the provisions of Part III of the Environmental Protection Act 1990”.
- (3) In section 21(1)—
- (a) for the words “or the Clean Air Act 1968” there shall be substituted the words “, the Clean Air Act 1968 or the Environmental Protection Act 1990”; and
 - (b) in paragraph (a), at the end, there shall be inserted the words “and Part III of the Environmental Protection Act 1990,”

- 8 The Radioactive Substances Act 1960 shall be amended by the insertion in Part I of Schedule 1 (exclusion of other controls) at the end, of the following paragraph—
- “9 Part III of the Environmental Protection Act 1990.”

- 9 In section 1(1)(g) of the Hovercraft Act 1986 (power to exclude noise nuisance proceedings), after the word “1974” there shall be inserted the words “or Part III of the Environmental Protection Act 1990.”

Goods vehicle operators' licences: pollution offences

- 10 (1) The following provisions of of the Transport Act 1968 shall be amended as follows.

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

- (2) In section 69 (revocation, suspension etc of goods vehicle operators' licence on grounds of convictions, etc)—
- (a) in subsection (1)(b)(i), for the words “paragraphs (a) to (fff)” there shall be substituted the words “paragraphs (a) to (ffff)”. and
 - (b) in subsection (4), after paragraph (fff) there shall be inserted the following paragraph—
 - “(ffff) a conviction of the holder of the licence or a servant or agent of his under—
 - (i) section 3 of the Control of Pollution Act 1974;
 - (ii) section 2 of the Refuse Disposal (Amenity) Act 1978;
 - (iii) section 1 of the Control of Pollution (Amendment) Act 1989, and
 - (iv) section 33 of the Environmental Protection Act 1990.”
- (3) In section 108(1) (statutory nuisance proceedings in relation to waterways), for the words “said Act of 1936” there shall be substituted the words “Environmental Protection Act 1990”.

National Park Wardens

- 11 In section 42 of the Countryside Act 1968 (National Park Wardens), in subsection (4)(a), for the words “section 1 of the Litter Act 1983” there shall be substituted the words “section 87 of the Environmental Protection Act 1990”.

Exclusion of Clean Air Act 1968 for prescribed processes

- 12 In the Clean Air Act 1968 there shall be inserted, after section 11, the following section—

“11A Relation to Environmental Protection Act 1990, Part I

- (1) The preceding provisions of this Act shall not apply to any process which is a prescribed process as from the date which is the determination date for that process.
- (2) The “determination date” for a prescribed process is—
 - (a) in the case of a process for which an authorisation is granted, the date on which the enforcing authority grants it, whether in pursuance of the application or, on an appeal, of a direction to grant it;
 - (b) in the case of a process for which an authorisation is refused the date of the refusal or, on an appeal, of the affirmation of the refusal.
- (3) In this section “authorisation”, “enforcing authority” and “prescribed process” have the meaning given in section 1 of the Environmental Protection Act 1990 and the reference to an appeal is a reference to an appeal under section 15 of that Act.”

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

Sale of electricity: Scotland

- 13 In section 170A(3) of the Local Government (Scotland) Act 1973 (restriction on sale of electricity by local authority) after the word “prescribed,” there shall be inserted the words “or in cases where it is produced from waste,”.

Workplace emissions into the air

- 14 Section 5 of the Health and Safety at Work etc. Act 1974 (general duty in relation to harmful emissions into the air from prescribed premises) shall be amended by the insertion—

- (a) in subsection (1), at the beginning, of the words “Subject to subsection (5) below,”; and
(b) after subsection (4), of the following subsections—

“(5) The foregoing provisions of this section shall not apply in relation to any process which is a prescribed process as from the date which is the determination date for that process.

(6) For the purposes of subsection (6) above, the “determination date” for a prescribed process is—

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

(7) In subsections (5) and (6) above “authorisation”, “enforcing authority” and “prescribed process” have the meaning given in section 1 of the Environmental Protection Act 1990 and the reference to an appeal is a reference to an appeal under section 15 of that Act.”

Water, noise and atmospheric pollution

- 15 (1) The following provisions of the Control of Pollution Act 1974 shall be amended as follows.
- (2) In section 30D, after the words “and 1965” there shall be inserted the words “and of the Environmental Protection Act 1990”.
- (3) In section 61(9), at the end, there shall be inserted the words “(in relation to Scotland) or section 82 of the Environmental Protection Act 1990 (in relation to England and Wales)”.
- (4) In section 65(8), at the end, there shall be inserted the words “(in relation to Scotland) or section 82 of the Environmental Protection Act 1990 (in relation to England and Wales)”.
- (5) In section 74(2), after paragraph (b), there shall be inserted the following “; or
(c) under section 80(4) of the Environmental Protection Act 1990,”.

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

- (6) In section 76(4)(a), after the words “part of a” there shall be inserted the words “process subject to Part I of the Environmental Protection Act 1990 or”.
- (7) In section 78(1), after the words “unless the” there shall be inserted the words “burning is part of a process subject to Part I of the Environmental Protection Act 1990 or the”.
- (8) In section 79(4), after the words “emissions from any” there shall be inserted the words “process subject to Part I of the Environmental Protection Act 1990 or”.
- (9) In section 80(3), after the words “relates to a” there shall be inserted the words “process subject to Part I of the Environmental Protection Act 1990 or a”.
- 16 (1) The Control of Pollution Act 1974 shall be further amended as follows.
- (2) In section 31 (control of pollution of rivers etc.) in subsection (2)(b) at the end there shall be inserted—
 - “(v) an authorisation granted under Part I of the Environmental Protection Act 1990 for a prescribed process designated for central control; or
 - (vi) a waste management licence granted under Part II of the Environmental Protection Act 1990; or”
- (3) In section 32 (control of discharges into rivers etc.) in subsection (4) after paragraph (b) there shall be inserted “or
 - (c) is authorised by an authorisation granted under Part I of the Environmental Protection Act 1990 for a prescribed process designated for central control,”.

Exclusion of Part II of Control of Pollution Act 1974 for radioactive substances: Scotland

- 17 For subsection (6) of section 56 of the Control of Pollution Act 1974 (interpretation of Part II) there shall be substituted the following subsection—
 - “(6) Except as provided by regulations made under this subsection, nothing in this Part of this Act applies to radioactive waste within the meaning of the Radioactive Substances Act 1960; but regulations may—
 - (a) provide for prescribed provisions of this Part of this Act to have effect with such modifications as the Secretary of State considers appropriate for the purposes of dealing with such radioactive waste;
 - (b) make such modifications of the Radioactive Substances Act 1960 and any other Act as the Secretary of State considers appropriate in connection with regulations made under paragraph (a) above.”

Statutory nuisances

- 18 In Section 33(2) of the Land Drainage Act 1976 (restriction on deposit of spoil), for the words “Part III of the Public Health Act 1936” there shall be substituted the words “Part III of the Environmental Protection Act 1990”.

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

Refuse Disposal: Scotland

- 19 (1) Section 1 of the Refuse Disposal (Amenity) Act 1978 (provision by waste disposal authorities of places etc. for disposal of refuse) shall be amended in relation to Scotland as follows.
- (2) In subsection (1) at the end there shall be inserted the words “and to dispose of refuse so deposited”.
- (3) In subsection (6) for the words from “mandamus” to the end of the subsection there shall be substituted the words “by proceedings under section 45 of the Court of Session Act 1988”.
- (4) In subsection (7) the definition of “local authority” and the word “and” which follows it shall be omitted.

Street cleansing: Scotland

- 20 In section 25 of the Local Government and Planning (Scotland) Act 1982, for subsection (3) there shall be substituted—
- “(3) In subsection (2) above “cleansing” means such cleansing as appears to the islands or as the case may be district council to be necessary in the interests of public health or safety or of the amenities of their area but does not include operations for the removal of snow or ice and “relevant land” means any land, in the open air, to which members of the public have access and which is not comprehended in a public road within the meaning of the Roads (Scotland) Act 1984.”.

Byelaws relating to straw or stubble burning

- 21 Section 43 of the Criminal Justice Act 1982 (creation by byelaws of offences relating to burning of straw or stubble) shall cease to have effect.

Functions assignable to London port health authority

- 22 In section 7(4) of the Public Health (Control of Disease) Act 1984 (enactments functions under which are assignable to London port health authority), after the paragraph (k) inserted by paragraph 23 of Schedule 6 to the Building Act 1984, there shall be inserted the following paragraphs—
- “(l) Part I of the Environmental Protection Act 1990;
- (m) Part III of the Environmental Protection Act 1990;”.

Street cleaning, etc: restriction of traffic

- 23 (1) Section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction of traffic) shall be amended as follows.
- (2) In section 14, after subsection (3) there shall be inserted the following subsection—
- “(3A) Subject to the following provisions of this section and to sections 15 and 16 of this Act, a highway or roads authority may also make an order under subsection (1) or issue a notice under subsection (3) above where the authority is satisfied or (as the case may be) where it appears to the authority that traffic on the highway or road should be restricted or prohibited

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

for the purpose of enabling the duty imposed by subsection (1)(a) or (2) of section 89 of the Environmental Protection Act 1990 (litter clearing and cleaning) to be discharged.”

Statutory nuisance

- 24 In section 76(1)(b) and (4)(a) of the Building Act 1984, for the words “sections 93 to 96 of the Public Health Act 1936” there shall be substituted the words “section 80 of the Environmental Protection Act 1990”.

Registers of deposits etc. at sea: Northern Ireland Assembly control of regulations

- 25 In section 25(3) of the Food and Environment Protection Act 1985, after paragraph (a)(ii) there shall be inserted the following sub-paragraph—
- “(iii) in section 14(8), for the words from “and any such power” onwards there shall be substituted the words “and any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954; and””.

Constitution of authorities for waste disposal

- 26 In section 10 of the Local Government Act 1985 (joint arrangements for waste disposal functions), in subsection (4), for the words “Part I of the Control of Pollution Act 1974” there shall be substituted the words “Part II of the Environmental Protection Act 1990”.

Meaning of household waste: competition

- 27 In Schedule 1 to the Local Government Act 1988 (competition: collection of household waste), paragraph 1 shall be amended as follows—
- (a) in sub-paragraph (1), the words “In the application of this Part to England and Wales,” shall be omitted;
 - (b) in sub-paragraph (2)(a), for the words “section 12 of the Control of Pollution Act 1974” there shall be substituted the words “section 45 of the Environmental Protection Act 1990”;
 - (c) in sub-paragraph (3), for the words “section 30(4) of the Control of Pollution Act 1974” there shall be substituted the words “section 75(8) of the Environmental Protection Act 1990”; and
 - (d) sub-paragraph (4) shall be omitted.

Exclusion of Water Act 1989 controls of exercise of trade effluent functions in case of prescribed processes

- 28 (1) Section 74 of the Water Act 1989 (control by Secretary of State of exercise of trade effluent functions in certain cases) shall be amended as follows.
- (2) In subsection (1), after the word “shall” there shall be inserted the words “subject to subsection (3) below”.
- (3) After subsection (2), there shall be inserted the following subsections—

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

- “(3) The provisions of Schedule 9 shall not apply in relation to any trade effluent produced or to be produced in any process which is a prescribed process designated for central control as from the date which is the determination date for that process.
- (4) The “determination date” for a prescribed process is—
- (a) in the case of a process for which an authorisation is granted, the date on which the enforcing authority grants it, whether in pursuance of the application or, on an appeal, of a direction to grant it;
 - (b) in the case of a process for which an authorisation is refused, the date of the refusal or, on an appeal, of the affirmation of the refusal.
- (5) In this section, “authorisation”, “enforcing authority” and “prescribed process” have the meaning given in section 1 of the Environmental Protection Act 1990 and the references to designation for central control and an appeal are references respectively to designation under section 4 and an appeal under section 15 of that Act.”

Exclusion of Part III of Water Act 1989 for discharges from prescribed processes

- 29 (1) Section 108 of the Water Act 1989 (no pollution offence where discharge authorised) shall be amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (a), there shall be inserted the following paragraph—
 - “(aa) an authorisation for a prescribed process designated for central control granted under Part I of the Environmental Protection Act 1990;”;
 - (b) in paragraph (b), at the beginning, there shall be inserted the words “a waste management licence or”.
- (3) In subsection (9) the word “and” shall be omitted and at the end, there shall be inserted the words “; “waste management licence” means such a licence granted under Part II of the Environmental Protection Act 1990.

Contents of registers of National Rivers Authority

- 30 In section 117(1) of the Water Act 1989 (registers for purposes of pollution control) at the end, there shall be inserted the following paragraph—
- “(f) any matter about which particulars are required to be kept in any register under section 20 of the Environmental Protection Act 1990 (particulars about authorisations for prescribed processes, etc.) by the chief inspector under Part I of that Act.”.

Carriers of controlled waste

- 31 (1) The Control of Pollution (Amendment) Act 1989 shall be amended as follows.
- (2) In the following provisions, for the words “disposal authority” and “disposal authorities” there shall be substituted the words “regulation authority” and “regulation authorities” respectively, that is to say, in sections 1(4)(a), 2(1), 2(b) and (e), (3)(a) and (e) and (4)(a), (b) and (c), 3(1), (2) and (6), 4(1), (3), (4), (5) and (8)

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

(b) and (c), 5(1) and (4)(a), 6(1), (2), (3), (5), (6), (7)(a) and (c), (8) and (9) and 7(1), (2), (3)(a) and (8).

- (3) In section 6(1) (offences justifying seizure of vehicles), in paragraph (a)(i)—
- (a) after “1974” there shall be inserted the words “or section 33 of the Environmental Protection Act 1990”; and
 - (b) after the word “unlicensed” there shall be inserted the words “deposit, treatment or”.
- (4) In section 7 (enforcement)—
- (a) in subsection (1), for the words from “91” to “information)” there shall be substituted the words “68(3), (4) and (5), 69, 70 and 71 of the Environmental Protection Act 1990 (powers of entry, of dealing with imminent pollution and to obtain information)”;
 - (b) in subsection (2), paragraph (b) shall be omitted; and
 - (c) in subsection (8), for the words “97 of the Control of Pollution Act 1974” there shall be substituted the words “72 of the Environmental Protection Act 1990”.
- (5) In section 9(1)—
- (a) in the definition of “controlled waste”—
 - (i) for the words “, subject to subsection (2) below,” there shall be substituted the words “, at any time,”; and
 - (ii) for the words “in Part I of the Control of Pollution Act 1974” there shall be substituted the words “for the purposes of Part II of the Environmental Protection Act 1990”,
 - (b) the definition of “disposal authority” shall be omitted; and
 - (c) after the definition of “prescribed” there shall be inserted the following definition—

““regulation authority” means a waste regulation authority for the purposes of Part II of the Environmental Protection Act 1990;”
- (6) Section 9(2) shall be omitted.